

DEPARTMENT OF THE NAVY
Office of the Chief of Naval Operations
Washington DC 20350-2000

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OPNAV INSTRUCTION 5354.1D

From: Chief of Naval Operations
To: All Ships and Stations (less Marine Corps field addressees not having Navy personnel attached)

Subj: NAVY EQUAL OPPORTUNITY
MANUAL

Ref: (a) DOD Directive 1350.2 of 18 Aug 95
(NOTAL)
(b) OPNAVINST 5354.3D (NOTAL)

Encl: (1) Navy Equal Opportunity Manual

1. **Purpose.** To issue enclosure (1), which implements reference (a), restates the equal opportunity (EO) policy of the Department of the Navy (DON), and provides guidance and policy for the Navy EO Program. This is a complete revision and should be reviewed in its entirety.

2. **Cancellation.** OPNAVINST 5354.1C.

3. **Applicability and Scope**

a. The provisions of this instruction apply to all active duty Navy and Naval Reserve units, and assigned civilian personnel (not to supersede the provisions of paragraph 3b). The scope of this instruction also extends, where specifically stipulated, to family members of military personnel.

b. Civilian Equal Employment Opportunity (EEO) policies and guidance are provided in separate instructions issued by the Office of Civilian Personnel Management (OCPM) and the Equal Employment Opportunity Commission (EEOC). Civilian personnel policy instructions concerning EEO have applicability to Navy commands/staffs employing U.S. civilian personnel and to all civilian employees, the commanding officer, and all military managers and supervisors of civilian personnel.

4. **Discussion.** A command environment in which equal opportunity exists for all members is essential to attaining and maintaining a high state of morale, discipline, readiness, and military effectiveness.

Command Managed Equal Opportunity (CMEO) is the commander's tool for prevention of discrimination and for ensuring these goals are attained. Command monitoring of internal practices, as well as awareness of the EO climate in the civilian community (as applicable), enables the commander, commanding officer, officer in charge, or supervisor to take prompt positive action to counter discrimination or other inappropriate practices. Education to promote an understanding of cultural and ethnic differences and to prevent sexual harassment is a command responsibility.

5. **Policy.** As stated in reference (b), the DON policy is to provide equitable treatment and equal opportunity to all Navy members.

a. This policy shall apply without regard to race, ethnicity, religion, gender, or national origin within constraints of the law.

b. This policy identifies actions to assist in achieving the following goals: attaining an officer and enlisted population that reflects the general population; recruiting qualified personnel; retaining eligible personnel; providing fair and equal military education opportunities for all qualified personnel; ensuring an equitable assignment process and leadership opportunities for all Navy personnel; providing EO training for Navy service members; ensuring EO for promotion and advancement for all personnel; ensuring that discrimination is permitted neither in the administration of military justice nor in the involuntary separation of personnel; ensuring that all personnel may participate equally in all occupational areas and warfare specialties within legal bounds; monitoring the EO climate; and ensuring discrimination complaint procedures are timely and effective.

6. **Responsibilities**

a. **Chief of Naval Operations (CNO)**

(1) Sponsor the EO program for Navy military and civilian personnel.

(2) Monitor the Navy's progress toward accomplishing EO.



**b. Deputy Chief of Naval Operations
(Manpower and Personnel) (N1)**

(1) Develop and monitor total force manpower and personnel policies and objectives. Ensure these include EO issues concerning career development and upward mobility programs which affect minorities and women.

(2) Submit an annual report to the Chief of Naval Operations summarizing results of the Military Equal Opportunity Assessment (MEOA) and the progress of the Navy Affirmative Action Plan (NAAP). Report symbol DD-FM&P(A)I760 applies.

(3) Annually report by message the status of EO in the Navy to flag officers, commanding officers, and officers in charge.

(4) Establish requirements for EO progress reports. Where feasible, incorporate existing reporting systems and automated files.

**c. Assistant Chief of Naval Personnel,
Personal Readiness and Community Support
(Pers-6/N15)**

(1) Coordinate NAAP implementation under the Deputy Chief of Naval Operations (N1).

(2) Provide information, assessment, and status reports on the EO program as required by higher authority.

(3) Provide overall direction, guidance, support, and leadership for fleet EO programs.

(4) Oversee the Command Managed Equal Opportunity (CMEO) program.

(5) Serve as Community Manager for Equal Opportunity Assistants (EOAs) (NEC 9515)

(6) Maintain the Discrimination and Sexual Harassment (DASH) database.

**d. Director of Naval Training (N7)/Chief of
Naval Education and Training (CNET)**

(1) Function as CMEO training manager.

(2) Develop, conduct, and standardize Navy EO training.

**e. Commander, Navy Recruiting Command
(COMNAVCRUITCOM)**

(1) Develop overall Navy recruiting strategies.

(2) Coordinate with program managers to support adequate representation of minorities and women in the Navy.

f. Fleet Commanders in Chief

(1) Develop programs to support Navy EO objectives.

(2) Monitor CMEO in the fleet.

(3) Monitor EO status within subordinate commands.

(4) Provide quarterly information to the DASH database.

g. Immediate Superior in Command (ISIC)

(1) Conduct EO inspections at subordinate commands.

(2) Ensure subordinate commands conduct annual command assessments.

(3) Monitor EO climate of subordinate commands by correlating results of command assessments to identify possible areas of concern.

(4) Coordinate reporting of sexual harassment and discrimination complaints.

(5) Prepare a consolidated report of commands inspected during the previous fiscal year, and a list of EO areas of concern which need to be addressed, and forward to Echelon 2 commands.

(6) Provide CMEOW waivers to subordinate commands as necessary.

h. Commanders, Commanding Officers (CO), Directors of Staffs, Officers in Charge, and Supervisors. Intermediate commanders, commanding officers, officers in charge, and supervisors (hereafter referred to as *commanders*) are responsible for ensuring EO for all personnel assigned to their commands or under their supervision. It is mandatory that commanders ensure the Navy's EO policy becomes an integral part of day-to-day personnel management. To that end, commanders shall issue their personal EO policy statement to the command and conduct an EO command assessment within 6 months of taking command and at least annually thereafter. The results of the most recent assessment will be included in the Commander's turnover. Command EO assessment plan of action and milestones will be reviewed annually by ISICs.

7. Action. Commanders are required to support the Navy's EO program by implementing the provisions of the Navy Equal Opportunity Manual, enclosure (1).

8. Forms and Reports

a. Forms. The following forms may be obtained from the Naval Inventory Control Point CD-ROM NAVSUP PUB 600(NLL), Navy Stock List of Publications and Forms.

(1) NAVPERS 5354/2 (Rev. 12-94), Navy Equal Opportunity (EO)/Sexual Harassment (SH) Formal Complaint Form, S/N 0106-LF-019-2500.

(2) NAVPERS 1626/7 (Rev. 12-88), Report and Disposition of Offenses, S/N 0106-LF-005-2700.

(3) OPNAV 5527/2 (Rev. 12-82), DON Voluntary Statement, S/N 0107-LF-055-2710.

b. Reports. The following reporting requirements are approved for 3 years from the date of this instruction:

(1) OPNAV 5354-10 Discrimination and Sexual Harassment (DASH) Report required by paragraph 6f(4) and appendix C of enclosure (1).

(2) DD-FM&P(A)1760 Military Equal Opportunity Assessment required by paragraph 6b(2).

c. The reporting requirement contained in paragraph 6b(3) is exempt from reports control by SECNAVINST 5214.2B.

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Deputy Chief of Naval Operations
(Manpower and Personnel)

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NAVY EQUAL OPPORTUNITY MANUAL

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RECORD OF CHANGES

<u>CHANGE NUMBER</u>	<u>DATE OF CHANGE</u>	<u>DATE ENTERED</u>	<u>SIGNATURE</u>

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REFERENCES

INSTRUCTION	TITLE	DATE
(a) NAVPERS 15620	Informal Resolution System (IRS) Skills Booklet--"Resolving Conflict.... Following the Light of Personal Behavior"	1993
(b) DOD Directive 1100.16 (NOTAL)	Equal Opportunity in Off-base Housing	14 Aug 89
(c) OPNAVINST 11101.13J	Assignment and Utilization Navy-Managed Military Family Housing (MFH)	16 Dec 92
(d) OPNAVINST 11101.21D	Navy Housing Referral Service (HRS)	27 Sep 83
(e) SECNAVINST 5350.14	EO In Off-base Housing	2 Feb 93
(f) SECNAVINST 5350.7A (NOTAL)	Non-discrimination in Federally Assisted Programs	7 Feb 72
(g) OPNAVINST 1620.1A	Guidelines for Handling Dissident and Protest Activities Among Members of the Armed Forces	4 Apr 77
(h) OPNAVINST 1620.2A	Armed Forces Disciplinary Control Boards and Off-Installation Liaison and Operations	30 Jun 93

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(i) SECNAVINST 5040.3	Naval Command Inspection Program	7 Jul 94
(j) SECNAVINST 5300.26B	Department of the Navy Policy on Sexual Harassment	6 Jan 93
(k) DOD Directive 6490.1 (NOTAL)	Mental Health Evaluations of Members of the Armed Services	14 Sep 93
(l) Navy Regulations	Navy Regulations	1990
(m) Manual for Courts Martial	Manual for Courts- Martial	1984
(n) DOD Directive 7050.6	Military Whistleblower Protection	12 Aug 1995
(o) OPNAVINST 3100.6G (NOTAL)	Special Incident Reporting (OPREP-3) Procedures	1 June 95
(p) SECNAVINST 1730.8	Accommodation of Religious Practices	23 May 88
(q) OPNAVINST 3120.32C	Standard Organization and Regulations of the U.S. Navy	11 Apr 94

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BIBLIOGRAPHY

1. To comply with this OPNAV instruction, certain relevant, separately issued publications must be acquired and inserted as part of this manual.
2. The EO manual will be considered complete only after the insertion of the following materials. All the materials should be readily available at your command. However, commands may requisition the materials via normal supply channels from Naval Inventory Control Point CD ROM NAVSUP PUB 600 (NLL), Navy Stock List of Publications and Forms.
3. Insert the following at the back of the manual and label it:
 - a. SECNAVINST 5300.26B, Department of the Navy (DON) Policy on Sexual Harassment, S/N 0579-LD-056-1650
 - b. Informal Resolution System (IRS) Skills Booklet--
"Resolving Conflict...Following the Light of Personal Behavior,"
NAVPERS 15620, S/N 0500-LP-543-0900
 - c. Command Managed Equal Opportunity (CMEO) Users Guide,
NAVEDTRA 7540, S/N 0503-LP-479-5900
 - d. Command Assessment Team (CAT) Indoctrination Step-by-Step
Guide with Appendix Booklet, NAVEDTRA 7523D, may be acquired from
the CAT Indoctrination Course
 - e. Commander's Handbook: A Tool Kit for Prevention of Sexual
Harassment, S/N 0503-LP-479-8400

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EXECUTIVE SUMMARY

This manual discusses Navy Equal Opportunity (EO) policies and regulations and defines the responsibilities and actions required by all commands. In addition, it presents an overall view of the Navy's posture toward EO and how this translates into Command Managed Equal Opportunity (CMEO). Amplifying guidance can be found in references (a) through (q), page iv, of enclosure (1).

SECTION I

EQUAL OPPORTUNITY RESPONSIBILITIES OF COMMANDERS

EO is a readiness issue and a basic principle of sound leadership. It is every commander's responsibility to fully implement CMEO and to ensure command climate supports equitable treatment and equal opportunity for all personnel to strive for excellence in all aspects of Navy life. The commander must ensure all personnel are aware of Navy EO policy and must take prompt action against those who are not in compliance.

SECTION II

EQUAL OPPORTUNITY RESPONSIBILITIES SPECIFIC TO SHORE COMMANDERS

Commanders of shore commands will ensure officially sponsored service oriented activities (clubs, exchanges, base housing, etc.) conform to Navy EO policy and command relations with civilian organizations, local governments, and housing authorities are reviewed with respect to discriminatory practices.

SECTION III

COMMAND MANAGED EQUAL OPPORTUNITY (CMEO)

CMEO is the commander's tool for detecting and preventing discrimination and sexual harassment, therefore ensuring a favorable EO climate. CMEO is required of all commands and shall be administered through:

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-- Command Training Team (CTT): The CTT is responsible for conducting annual command specific training and Navy Rights and Responsibilities (NR&R) workshops. Annual command specific training will inform all hands of command EO initiatives deriving from the annual command assessment, conduct sexual harassment recognition and prevention training, and review Department of Defense (DOD), Secretary of the Navy (SECNAV), and Office of the Chief of Naval Operations (OPNAV) policies. NR&R workshops present training on Navy EO principles, policies, and procedures and are geared for indoctrination of newly reported personnel.

-- Command Assessment Team (CAT): The CAT conducts an annual command assessment of EO climate through analysis of command specific data on officer and enlisted retention, advancement, and discipline; an EO survey; interviews; and observations. The data collected in the command assessment is analyzed and plans formulated to address areas of concern. All data and plans of action and milestones (POA&Ms) should be retained for future ISIC inspections.

SECTION IV

PREVENTION OF SEXUAL HARASSMENT

All Navy personnel have a responsibility to maintain an environment free of sexual harassment. Commanders must be proactive in stating sexual harassment prevention policy, conducting annual training, expeditiously and fairly resolving complaints by informal or formal means, and guarding against reprisals toward individuals who report sexual harassment or discrimination issues.

SECTION V

NAVY COMPLAINT PROCEDURES

Individual discrimination or harassment complaints are resolved using Navy Complaint Procedures. Informal and formal complaint procedures are discussed along with alternative steps available. Emphasis is placed on resolving the problem at the lowest level.

The Naval Inspector General's "Fraud, Waste and Abuse Hotline" is available as an alternate means of reporting allegations of

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harassment or discrimination. The Navy Equal Opportunity (EO)/Sexual Harassment (SH) Formal Complaint Form, NAVPERS 5354/2, will facilitate the handling of complaints and reporting requirements with respect to complaint procedures. The Commander's Handbook: A Tool Kit for Prevention of Sexual Harassment, provides additional guidance on complaint procedures.

SECTION VI

INCIDENT HANDLING AND REPORTING

Criteria for classifying incidents and determining reporting requirements are provided.

SECTION VII

NAVY EQUAL OPPORTUNITY TRAINING

Establishes EO training requirements for officer and enlisted personnel for accession and professional development training to ensure EO knowledge and skills are developed throughout each individual's career.

SECTION VIII

EQUAL OPPORTUNITY ISSUES

EO encompasses a broad scope of issues which often require creative approaches on the part of commanders to achieve a workable solution. Examples of individual needs which may require special attention include religious accommodations, national heritage observances, and English language skills.

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SECTION I

EQUAL OPPORTUNITY RESPONSIBILITIES OF COMMANDERS

1. Introduction and Overview. Equal opportunity (EO) is an inseparable part of sound leadership and readiness. The Navy's top-level leaders must promote a positive EO climate in the command through personal example, a command policy statement on EO, and their leadership practices. The objective of the EO program is to promote positive command morale and quality of life and to provide an environment in which all personnel can perform to the maximum of their ability unimpeded by any institutional or individual biases based on racial, ethnic, gender, or religious stereotypes. As a basic part of this effort, a commander must aggressively shape and evaluate the command EO climate through the training and assessment tools afforded by the Command Managed Equal Opportunity (CMEO) process and must ensure proper handling and reporting of complaints and incidents which arise. A failure to emphasize EO not only creates a perception that EO is not important but can negatively impact personnel and operational readiness in cases where discriminatory practices are not corrected.

a. EO Special-Interest Item. The Secretary of the Navy and the Chief of Naval Operations (CNO) have designated EO/Sexual Harassment as items of special interest during command inspections.

b. Command Policies. Commanders must establish, promote, and issue EO policy. EO must be emphasized at top leadership levels, to include training of all assigned personnel in its precepts and holding individuals accountable for compliance. Command assessments and related Plans of Actions and Milestones (POA&Ms) shall be turnover items for change of command. New commanders are responsible for conducting an EO assessment within 6 months of taking command. The following areas are of particular importance:

(1) Discipline/Military Justice. Commanders are responsible for ensuring equal justice for all personnel. They shall continually review the disposition of all charges to ensure that racial, religious, ethnic, or gender bias have not been factors in any phase of the process. Where disproportionate numbers of any group receiving disciplinary action are noted, the

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(1) Discipline/Military Justice. Commanders are responsible for ensuring equal justice for all personnel. They shall continually review the disposition of all charges to ensure that racial, religious, ethnic, or gender bias have not been factors in any phase of the process. Where disproportionate numbers of any group receiving disciplinary action are noted, the commander shall review such statistics and attempt to ascertain if the disproportionate numbers are caused by institutional or individual biases and take action to remove such causes as required.

(2) Complaints of Discrimination and Sexual Harassment

(a) Commanders are responsible for ensuring that all individuals know about their right to submit an informal or formal complaint, the methods for submission, and the entitlement to obtain legal military counsel. Procedures for resolving informal complaints are discussed in section V and reference (a) listed on page v, the Department of the Navy (DON) Informal Resolution System. Informal procedures include review of the circumstances by the immediate supervisor, as well as Commander's Request Mast if resolution is not reached at a lower level in the chain of command. (Formal complaints are discussed in section V.)

(b) Commanders will ensure that personnel know about command and shore based assistance available to those who need help in processing discrimination/sexual harassment complaints. This assistance includes access to legal counsel, Equal Opportunity Assistants (EOAs), the DON Equal Opportunity/Sexual Harassment Advice Line, and the Navy Inspector General's (IG) Fraud, Waste, and Abuse Hotline. See appendix F of this manual for telephone numbers and additional resources.

(3) Assignments/Training/Promotion/Advancement. Commanders must ensure personnel are assigned to jobs and special programs based on qualifications, performance, and potential. In so doing, commanders shall ensure assignment of the right person

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to the right job without restriction based on institutional biases and/or cultural or other stereotypes. Commanders shall ensure EO in training and advancement. The commander's personal attention to this issue is key to preventing discrimination.

(4) Performance Evaluations and Fitness Reports. One of the most important responsibilities of a commander is the evaluation of personnel. Evaluations, fitness reports and the counseling attendant to them, not only recognize job performance and point out areas for improvement, but also form the basis for future promotion and assignment. Evaluations and fitness reports, therefore, must be based strictly on demonstrated performance.

(5) Awards. Recognition for personal accomplishments is a motivating performance and retention factor for all Navy personnel. This builds and strengthens the Navy by retaining the skills of experienced personnel. The presentation of awards shall be monitored.

(6) Enforcement of Command EO Policy. Any person who has committed an act of discrimination is subject to disciplinary action. Appropriate disciplinary actions are an effective discrimination (e.g., racism, sexism) prevention measure. The EO program can succeed only if discrimination is eradicated through identification, evaluation, and correction of harmful practices. The following actions or combination thereof are available to the commander:

(a) Counsel the individual concerning the undesirable behavior, necessary corrective action, responsibilities for supporting EO, and consequences of further inappropriate actions.

(b) If counseling is ineffective, or if further action is warranted, the command shall progressively pursue administrative and/or disciplinary actions such as: administrative warning (page 13 entry); non-punitive letter of

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caution; lowered fitness report/evaluation marks; relief for cause; nonjudicial punishment (NJP); court-martial; and/or recommendation for separation from the Naval Service.

(c) Commands shall maintain a record of all instances involving discrimination/sexual harassment complaints or other EO issues.

c. Command Managed Equal Opportunity (CMEO). CMEO, as detailed in section III of this manual, is the commander's responsibility. Basic elements of the program listed below are required for implementation. Commanders must ensure that:

(1) A CMEO officer, Command Assessment Team (CAT), and Command Training Team (CTT) are properly appointed and trained.

(2) The CAT meets quarterly (at a minimum).

(3) Command assessment POA&Ms are reviewed annually by higher authorities as required and retained for 36 months.

(4) Command personnel are kept informed of plans of action to correct problem areas and the milestones achieved.

(5) Command personnel are routinely informed of the status of the POA&Ms resulting from the annual command assessment.

(6) All complaints of discrimination, including sexual harassment, are completely investigated and resolved.

(7) All complaints, incident reports, and other statistical data and information as may be required are promptly submitted. (See appendix C for additional guidance.)

(8) Initial and annual command assessments shall include all command military personnel, including students and temporary

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duty personnel assigned at the time of the assessment. Civilian personnel assigned shall be encouraged to participate in the assessment.

(9) Ensure that the CTT conducts Navy Rights and Responsibilities (NR&R) Training for all personnel within 90 days of check-in and annual refreshers in conjunction with the command assessment.

2. Shared Responsibilities. EO issues outside the scope of responsibility of tenant commanders shall be shared with the installation host commander. This does not relieve individual commanders of responsibility for determining that EO issues exist within their commands and taking action to work with the responsible shore commanders to ensure proper resolution.

3. Immediate Superiors in Command (ISICs). Commanders who are ISICs have the additional responsibility of ensuring subordinates properly emphasize, prioritize, and implement CMEO. The EOA, if assigned, will provide assistance in oversight functions and in training if there are program deficiencies.

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SECTION II

ADDITIONAL EQUAL OPPORTUNITY RESPONSIBILITIES OF SHORE COMMANDERS

1. Introduction and Overview. Shore commanders have an expanded EO role because of increased numbers of civilian workers and their responsibilities associated with service facilities, housing, and the civilian community. Provisions will be made to assist personnel in resolving discrimination (including sexual harassment) issues. Commanders at overseas bases will also take positive action to eliminate discrimination/sexual harassment involving Navy personnel, sponsored dependents, civilians, and host nationals on their bases.

2. Discrimination/Sexual Harassment Complaint Support. Shore commanders will afford assistance to individuals, including personnel from tenant commands, ships, squadrons, etc., in filing discrimination and sexual harassment complaints. This service should include legal advice and administrative/clerical assistance and/or EOAs, if available. Points of contact shall be publicized to all hands.

3. Service Facilities. Commanders shall ensure that service facilities are operated in a nondiscriminatory manner.

4. Discrimination in Housing. Specific policies and guidance are provided in references (b), (c), (d), and (e).

5. Discrimination in the Host Community. Discrimination in local civilian communities impacts negatively on the morale of military personnel and their families. It is mandatory that commanders take positive actions to foster fair treatment of military personnel and families in the host community. To accomplish this, commanders shall perform the following functions:

a. Serve as the Navy's official EO representative in the community and seek fair treatment of Navy personnel.

b. Make the chain of command aware of the responsibility to provide support and assistance in eliminating discrimination in

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the host community and to provide information on these efforts to their personnel.

c. Coordinate with other military services and Federal agencies for the purpose of adopting common policies regarding off-base discrimination problems.

d. Meet with local individuals and groups to solicit their cooperation in eliminating discrimination.

e. Take prompt actions to resolve all discrimination complaints using the most appropriate means available. These actions include:

(1) Attempting to resolve disputes (or have them resolved) by negotiation, conciliation, and local action.

(2) Advising personnel of their right to initiate civil suits against discriminatory business organizations, either privately or through the Attorney General of the United States, under the Civil Rights Act of 1991. Requests for suit by the Attorney General may be made directly to that office or may be processed through military channels as outlined in reference (f), page iv.

6. Cooperation with Local Organizations. Commanders shall cooperate with civilian groups to develop good base/community relations consistent with Navy EO policy (for example, permitting the use of base facilities by charitable organizations, or honoring requests from civilian organizations and units of local government for performances by Navy bands, drill units, or color guards).

7. Navy Member Involvement. Navy personnel are prohibited from participating in organizations that support supremacist causes, attempt to create illegal discrimination, encourage the use of force or violence, or otherwise engage in efforts to deprive others of their civil rights. Active demonstration such as publicly demonstrating or rallying, fundraising, recruiting and training members, and organizing or leading such organizations is

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incompatible with military service and is prohibited, as stated in reference (g). Commanders have authority to employ the full range of administrative procedures, including separation, or appropriate disciplinary action against military personnel who actively participate in such groups.

8. Off-Limits Sanctions. Commanders, who in their judgment consider off-limits sanctions justified against private concerns which practice discrimination, shall take action as outlined in reference (h).

9. Public Affairs. Commanders shall ensure that the public affairs programs of their organizations reflect the Navy's commitment to EO.

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SECTION III

COMMAND MANAGED EQUAL OPPORTUNITY (CMEO)

1. Introduction and Overview. An environment of equal opportunity is essential to attaining and maintaining a high state of morale, discipline, and readiness. Command monitoring of internal practices as well as awareness of the EO climate enables the commander, commanding officer, officer in charge, or supervisor to take prompt action to prevent discriminatory practices that may hinder military effectiveness. CMEO is a management tool for commanding officers designed to assess the level of EO within their own commands and enable commanding officers to identify possible areas of concern. Although controlled primarily at the command level, CMEO offers a management system by which the command can be responsive to higher echelons. CMEO consists of four main elements: (1) Command Assessment; (2) Analyses; (3) Action Planning; and (4) Training. The first three elements are performed by the Command Assessment Team (CAT) and the last one by the Command Training Team (CTT).

2. Origin of CMEO

a. The Chief of Naval Operations directed establishment of a Race Relations and Equal Opportunity Program in the early 1970's. Known as Phase I, the program was designed to eliminate overt racism in individual behavior through Race Relations Education.

b. In 1974, Phase II was launched to identify hidden biases that could be detected in anomalies in rates of promotion, advancement, or retention for any certain group. Phase II was based on education, data collection, action planning, and program oversight and was conducted through Human Resource Management Centers (HRMC's) assigned to each fleet commander.

c. CMEO was initiated in 1985. It continued use of the statistical approach of Phase II, but placed the responsibility for running the program at the individual command level, emphasizing the commander's responsibility to create and maintain a positive EO climate within the command.

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3. Purpose of CMEO. The purpose of CMEO is to reemphasize the chain of command as the medium for identifying and resolving command EO issues. CMEO has two basic goals:

a. To attain improved mission readiness and effectiveness through the optimum utilization of all personnel.

b. To promote management actions that will establish and maintain equal opportunity in the command in consonance with existing rules, regulations, and directives.

4. CMEO Administration. As a "command managed" system, CMEO is administered by the following command appointed personnel:

a. CMEO Officer. Although overall responsibility for CMEO rests with the commander, a CMEO officer shall be appointed to assist the Executive Officer in carrying out the duties and responsibilities of the CAT and coordinating the training conducted by the CTT. On small platforms and small shore commands (no more than 500 military personnel assigned) the duties of the CMEO officer may be assigned to the command master chief (CMC), chief of the boat (COB), or the equivalent position. The CMC/COB must be fully immersed in all aspects of the CMEO process to include familiarity with all EO cases, command assessment results and grievance/redress actions. On larger platforms and large shore stations (more than 501 personnel assigned), and all training commands, an E8 through CWO4 or an officer with at least 4 years of service, may be appointed by the commander. The training required, duties, and responsibilities of the CMEO officer are detailed in appendix E of this manual.

b. Command Training Team (CTT). Every command with 50 or more permanently assigned personnel is required to have a CTT to present command specific training, Navy Rights and Responsibilities (NR&R) workshops, annual sexual harassment training, and other EO training as may be required. ISICs may opt to provide centralized NR&R workshops for subordinate commands with less than 50 personnel attached. The CTT leader must be a division officer or a department head.

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(1) Qualification requirements for CTT members (Waivers may be requested from the ISIC):

- (a) Paygrade E6 or above
- (b) Have at least 18 months remaining onboard as determined by projected rotation date (PRD)
- (c) Present a sharp military appearance and pass the Physical Readiness Test (PRT)
- (d) No non-judicial punishment (NJP) within the past 24 months
- (e) Possess good communication and teambuilding skills.

(2) CTT members shall be appointed in writing and shall complete within 6 months, the formal CTT Indoctrination Course (CTTIC), either through a CNET CMEO training site or through individual training by an EOA (NEC 9515), and the Navy's EO Correspondence Course. These requirements must be documented in the service record and must be repeated if the individual has not actively been assigned to a CTT for 24 months or more.

(3) The maximum size of the CTT is at command discretion. Minimum requirements based on the size of the command are: 2 for the first 50 to 100 personnel; 3 for 101 to 200; 4 for 201 to 300; and 5 for 301 and over.

(4) Commands with less than 50 military personnel permanently assigned are not required to have a CTT if arrangements can be made to participate in NR&R workshops at a host or neighbor command. In such cases, the command to which personnel are permanently assigned is still responsible for addressing command-specific EO issues and making service record entries to document training received.

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c. Command Assessment Team (CAT)

(1) Every command with more than 50 personnel is required to have a CAT to conduct command assessments. The executive officer chairs the CAT. Membership must include the command master chief, command career counselor, personnel officer, legal officer, CMEO officer, CTT leader, and at least one department head. Additional membership should reflect the demographics (pay grade, gender, race, ethnicity, and organizational level) of the command. Commands with civilian personnel assigned may augment the CAT with civilian representation.

(2) Qualification requirements for CAT military members (Waivers may be requested from the ISIC):

(a) 18 months remaining onboard as determined by PRD.

(b) Present a sharp military appearance and pass the Physical Readiness Test (PRT).

(c) No non-judicial punishments within the past 24 months.

(d) Possess good communication and teambuilding skills.

(3) CAT members shall be appointed in writing and must attend a formal Command Assessment Team Indoctrination (CATI) course through a Chief of Naval Education and Training (CNET) facility or be trained by an EOA (NEC 9515) and the Navy's EO Correspondence Course. Training must be documented in the service record and must be repeated if the member has not actively participated in conducting an assessment in over 24 months.

(4) Activities with fewer than 50 military personnel assigned are not required to have a CAT; however, the activity must, with ISIC assistance, still conduct command assessments and

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5. Command Assessments. Command assessments are required within 6 months following change of command and at a minimum annually thereafter. The most recent command assessment results will be included as part of the commander's turnover. As part of the command assessment the CAT is to record command demographics by race/ethnic/gender/paygrade group and data on retention, discipline, and advancement; conduct an attitudinal survey of a representative sample of the command; and hold interviews and record observations in order to form a full picture of the EO climate onboard the command. Command personnel demographics data is available upon request from the servicing Personnel Support Activity Detachment (PSD).

a. The Command Assessment Team System (CATSYS) is a survey computer program package designed to assess equal opportunity climate at commands. Computerized data entries allow the commander to compare the command's climate data to Navy-wide data collected every 2 years by the Navy Equal Opportunity Sexual Harassment (NEOSH) Survey administered by the Navy Personnel Research and Development Center. Updates can be obtained from any CNET Training Facility.

b. Military Equal Opportunity Climate Survey (MEOCS). An additional survey data collection method is available to commanders from the research division of the Defense Equal Opportunity Management Institute (DEOMI). The MEOCS can be used as a supplement, but not as a replacement to CATSYS.

6. Inspections/ISIC Oversight. ISICs are required to inspect EO as a special interest item during subordinate command inspections per reference (i). EOAs, if assigned, shall conduct the EO portion of the inspection. Interval between inspections will not exceed 36 months, and every new commander will be inspected at least once. A periodic review by ISIC EOA's of the results of command assessments should be performed, as well as random spot checks and/or technical assist visits. ISICs exercise continual program oversight.

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SECTION IV

PREVENTION OF SEXUAL HARASSMENT

1. Sexual Harassment Prevention

a. A Leadership Issue. Leadership is the key to eliminating all forms of unlawful discrimination and must also be the cornerstone in eliminating sexual harassment. All personnel, military and civilian, are responsible for ensuring a work environment free from sexual harassment. Policy governing sexual harassment issues can be found in references (a), (j), and (k), listed on page iv of this manual.

b. Definition of Sexual Harassment. Sexual harassment is a form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career, or

(2) Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

(a) The above definition emphasizes that workplace conduct, to be actionable as "abusive work environment" harassment, need not result in concrete psychological harm to the victim, but rather need only be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or abusive (NOTE: "Workplace" is an expansive term for military members and may include conduct on or off duty, 24 hours a day).

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(b) Any person in a supervisory or command position who uses or condones any form of sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature in the workplace is also engaging in sexual harassment.

c. Accountability. Sexual harassment is prohibited. Any person in a supervisory or command position who uses or condones any form of sexual behavior to control, influence, or affect the career, pay, or job of a service member or civilian employee is engaging in sexual harassment and has failed to fulfill his or her leadership obligation. Similarly, any service member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment. All personnel should be familiar with the provisions of reference (j) and understand that failure to comply is (a) punishable under the Uniform Code of Military Justice (UCMJ) for military personnel, or (b) in the case of civilian employees, may result in disciplinary action.

d. Responsibilities of Leaders. Commanders and supervisors shall:

(1) Ensure assigned personnel are familiar with the SECNAV and OPNAV policies on sexual harassment. They shall further issue their own policies clearly defining sexual harassment and making a clear statement that it will not be tolerated. Commanders are encouraged to include sexual harassment policy in their EO policy statements. Appendix H provides a sample policy statement. Sample plan of the day notes are listed in appendix I.

(2) Provide annual all-hands training to ensure that personnel know what sexual harassment is, what it is not, and what the consequences of such behavior will be. This training may be accomplished as part of the annual command specific training. Documentation of this training will be maintained in command records and individual service records (page 13 entry).

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(3) Provide training and make all hands aware of the Informal Resolution System (IRS), reference (a), adopted by the DON as a means of resolving sexual harassment complaints at the lowest possible level of the chain of command. Provide an IRS skills booklet to all command personnel. Prominently display IRS posters to emphasize system use. Incorporate books and videotapes in the IRS Training Information Resource (TIR) Library located at Family Service Centers to augment annual training (See appendix F). Ensure personnel are also aware of formal avenues for seeking redress (see section V of this manual) and actions that will be taken against personnel violating sexual harassment policies.

(4) Take prompt, decisive action to investigate all complaints of sexual harassment, and either resolve the problem at the lowest possible level or take formal disciplinary and/or administrative action if necessary. Table IV-1 outlines examples of conduct that might constitute sexual harassment, as well as additional offenses under the UCMJ.

(5) Assign an advocate. Provide feedback on actions taken to the complainant. Ensure that he or she is protected against any form of reprisal. (See paragraph 2b for formal reporting requirements.)

(6) Report complaints that reach a formal level of resolution (whether substantiated or not) via the appropriate Echelon 2 command.

(7) Set a standard of exemplary behavior; know and understand sexual harassment and its detrimental impact on mission readiness.

e. All-Hands Responsibilities. All DON personnel are expected to demonstrate zero tolerance of sexual harassment.

2. Complaints/Reporting

a. Personnel who allege discrimination or sexual harassment may file a formal complaint using NAVPERS 5354/2, Navy Equal Opportunity (EO)/Sexual Harassment (SH) Formal Complaint Form. See appendix B for guidance on completing this form.

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b. Specific guidance on the formal processing and reporting of discrimination and sexual harassment complaints is contained in sections V and VI. Additional assistance is available from shore commands as described in section II.

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CHARGING SEXUAL HARASSMENT UNDER THE UCMJ

UCMJ ARTICLE 92(1) (SECNAVINST 5300.26B)

Sexual harassment constitutes an offense under UCMJ Article 92(1) for violation of the lawful general order promulgated by SECNAVINST 5300.26B. Alleging violations of this order should generally prove to be the most convenient and appropriate way to charge sexual harassment offenses. (NAVRIGS 1166 prohibits the same conduct, but SECNAVINST 5300.26B, which includes definitions of key terms, is preferable.) SECNAVINST 5300.26B prohibits the following:

CONDUCT (applies to all conduct which occurs in or impacts a DOD working environment; reasonable person standard used to determine violation)	REMARKS (maximum punishment for each violation includes dishonorable discharge (DD) and 2 years' confinement)
Unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to/rejection of such conduct is explicitly or implicitly made a term/condition of person's job/pay/career, or submission to/rejection of such conduct by a person is used as basis for career/employment decisions affecting that person, or such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment	"quid pro quo" sexual harassment; (e.g., promise of employment, promotion, threat of or actual demotion, duty assignment, positive/negative eval) "quid pro quo" sexual harassment could include a work environment in which sexual slurs, the display of sexually suggestive calendars, or other offensive sexual behavior abound
Deliberate or repeated unwelcomed verbal comments, gestures, or physical contact of a sexual nature	wrongful threatening/taking unfavorable action (or withholding favorable action) solely for reporting sexual harassment
Take reprisal action against a person who provides information on an incident of alleged sexual harassment	honest belief in accusation's validity is complete defense
Knowingly make false accusation of sexual harassment	
While in a supervisory or command position, use, condone, or ignore sexual harassment of which supervisor/commander has knowledge or has reason to have knowledge	

Although the UCMJ contains other articles prohibiting sexual harassment or conduct related to sexual harassment, generally it should suffice to charge as indicated above. However, charging other violations in addition to, or in lieu of, the foregoing charges may be indicated where the conduct in question is particularly serious, or not adequately covered by SECNAVINST 5300.26B. The following is a non-exclusive summary of other possible charges:

BEHAVIOR	UCMJ ARTICLES	MAX PUNISHMENT (discharge, confinement)	REMARKS
Threatening to influence adversely another's job, pay or career in exchange for sexual favors	127 (extortion) 134 (communicating a threat)	DD, 3 yrs DD, 3 yrs	
Offering/accepting sexual favors for job rewards	134 (bribery/graft)	DD, 5/3 yrs (bribery/graft)	a willing "victim" commits bribery; a willing supervisor commits graft
Cruelty, oppression, or maltreatment of subordinate by superior	93	DD, 1 yr	conduct does not have to be sexual; victim must be "subject to the orders" of the accused but need not be subject to UCMJ
Using official position for private gain; use of supervisor's or subordinate's official time for unofficial activities; use of government property for unauthorized purposes; unauthorized gift to superior	92(1) (violating lawful general order adopting Office of Government Ethics standards of conduct--promulgated by DODDIR 5500.7, DOD 5500.7-R, and ALNAV 139/93)	DD, 2 yrs	can be committed even when "victim" is willing; in many instances, willing "victim" also commits offense
Language or gestures strong enough to risk inciting breach of peace	117 (provoking words/gestures)	discharge N/A, 6 mos	victim must be subject to UCMJ & present; N/A to proper reprimand/proof/counseling

(continued from preceding page)

BEHAVIOR	UCMJ ARTICLES	MAX PUNISHMENT (discharge, confinement)	REMARKS
Disrespectful language or behavior - could include milder behavior than that needed to violate SECNAVINST 5300.26B	89 (disrespect to superior commissioned officer)	BCD, 1 yr	accused must know victim was officer; victim need not have been present; victim need not have been executing office
	91(3) (disrespect to WO-1 or NCO/PO executing his/her office)	discharge/confinement varies based on victim's status (maximum: BCD, 9 mos)	accused must be WO-1 or enlisted; accused must know victim's status; victim must have been present; victim need not be superior
Indecent language	134 (indecent language)	BCD, 6 mos	can be written as well as verbal
Nonconsensual physical conduct or attempted nonconsensual physical conduct	90 (assaulting superior commissioned officer executing his/her office)	DD, 10 yrs (death possible in wartime)	accused must know victim's status; any offensive touching, however slight;
	91(1) (assaulting WO-1/NCO/PO executing his/her office)	varies from DD/5 yrs to DD/1 yr based on victim's status	accused must be WO-1 or enlisted; accused must know victim's status; victim need not be superior; any offensive touching, however slight
	120 (rape)	DD, death/life imprisonment	victim can be either male or female
	125 (forcible sodomy)	DD, 20 yrs	
	128 (assault, assault and battery, assaulting officer/WO-1 (not executing office), inflicting grievous bodily harm)	varies from BCD/6 mos to DD/10 yrs (based on victim's status, force used, injuries)	battery includes any offensive touching, however slight
Consensual physical conduct of a sexual nature	134 (indecent assault)	DD, 5 yrs	requires intent to gratify accused's lust
	134 (assault intending rape, sodomy)	DD, 20/10 yrs (rape/sodomy)	
	134 (indecent exposure)	BCD, 6 mos	
	125 (consensual sodomy)	DD, 5 yrs	
	134 (adultery)	DD, 1 yr	at least one must be married to someone else
Fraternalization: unduly familiar, inappropriate personal relationship, which need not necessarily be sexual	134 (indecent acts with another)	DD, 5 yrs	
	92(1) (violating general order of NAVREGS 1165 or OPNAVINST 5370.2A)	DD, 2 yrs	encompasses certain officer-officer and enlisted-enlisted (as well as officer-enlisted)
Supervisor failing to take adequate steps to foster a climate free of sexual harassment, investigate allegations, or protect victims/witnesses from reprisals	134 (officer fraternization)	Dismissal, 2 yrs	only applies to officer accused in officer-enlisted relationship
	92(3) (dereliction of duty)	BCD, 6 mos	necessary that accused knew or should have known of duties, but not necessary that accused knew or should have known about actual instances of sexual harassment
Accused is an officer	133 (conduct unbecoming an officer)	Dismissal, confinement varies	includes behavior in a private capacity
Other conduct prejudicial to good order and discipline, or service discrediting	134 (the general article)	varies	can include conduct that violates other Federal or state law

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SECTION V

NAVY COMPLAINT PROCEDURES (INFORMAL AND FORMAL)

1. Complaints. One of the most important aspects of the EO program and one which requires continual attention on the part of the commander is the process whereby complaints of discrimination and sexual harassment are handled by the chain of command. A complaint is nothing more than bringing to the attention of proper authority the known, suspected, or probable commission of an offense under the UCMJ, a violation of a civil law, or other inappropriate conduct. A complaint may be made orally or in writing. Anyone may initiate a complaint: military or civilian, officer or enlisted. References (l) and (m) provide further guidance.

2. Service Members' Rights and Responsibilities. Individuals who perceive that they have been discriminated against and/or harassed shall attempt to resolve the complaint at the lowest level possible and fully use the chain of command.

a. Service members have the right to:

(1) Present any legitimate complaint to the command without fear of intimidation, reprisal, or harassment.

(2) Be educated on the Navy's Complaint Procedure and on procedures for appealing decisions.

(3) Communicate with the commander concerning their complaint under Navy Regulations (NAVREGS), article 1151, *Direct Communication with the Commanding Officer*.

(4) Obtain feedback from the commander on the resolution of the complaint.

b. Service members have the responsibility to:

(1) Advise the command of the specifics of discrimination/sexual harassment complaints.

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(2) Provide the command an opportunity to rectify, remedy or take appropriate action before the complaint becomes a formal one which is then brought to the attention of higher authorities.

(3) Submit only legitimate complaints and exercise caution against immature or reckless charges.

3. Complaint Procedures. The procedures an individual must follow to present a complaint are divided into two categories: informal and formal.

a. Informal Resolution Procedures. This is the first step in resolving a complaint and should be started at the lowest level possible. Informal procedures are designed to complement, not replace, the formal procedures.

(1) Individuals should first attempt to resolve complaints with the person or persons involved. A third person may be called upon to assist in the resolution. The Informal Resolution System (IRS) should be used to resolve the conflict unless the behavior involved is clearly criminal (e.g., rape, assault). Assistance of the immediate supervisor in resolving the complaint may be requested as the circumstances require. If the object of the complaint is the complainant's immediate supervisor, present the complaint to the next senior in the chain of command. The IRS skills booklet for resolving conflict, reference (a), provides step-by-step guidance for resolving not only sexual harassment issues but conflicts of any nature in the workplace.

(2) If the complaint cannot be resolved between the complainant and the person(s) involved, or with the help of immediate supervisors, then submit a request either in writing or orally in a timely manner for Commander's Request Mast.

(3) If the informal resolution of the complaint is considered unsatisfactory, use formal procedures for redress (relief). In all cases, it is the commander's responsibility to inform the complainant of his/her right to submit a formal complaint and the method for making the submission.

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(4) Commanders who become aware of a complaint, and the parties involved have elected to resolve via IRS, are strongly encouraged to document resolution for the record. This will permit the commander to verify resolution of complaint in the event of future inquiries.

(5) As discussed in section II, shore commanders will provide additional assistance in resolving sexual harassment and EO complaints. Points of contact will be made available for assistance in determining the need for a complaint, the proper method of submission and legal counsel prior to submitting a formal complaint.

(6) If available, use an EOA to assist in the investigation process to fully assess the conduct which led to the complaint.

b. Formal Complaint Procedures. The Navy has three avenues for filing a formal complaint: (a) (NAVPERS 5354/2) Navy Equal Opportunity (EO)/Sexual Harassment (SH) Formal Complaint Form; (b) NAVREGS, article 1150 (reference (l)); and (c) UCMJ, article 138, (reference (m)). EO and sexual harassment complaints should first be filed using the Equal Opportunity /Sexual Harassment Formal Complaint Form. Complainants who are not satisfied upon completion of the EO/SH formal complaint process may then file a complaint under NAVREGS article 1150 or UCMJ article 138. Legal counsel is recommended when filing a complaint under either of these articles.

(1) (NAVPERS 5354/2,) EO/SH Formal Complaint Form (appendix B). The primary means of addressing a formal complaint, this form simplifies the process of filing complaints and describes the complaint process from beginning to end.

(2) NAVREGS, Article 1150. If the complaint is against a superior (other than the commanding officer), procedures for the complaint are contained in Judge Advocate General Manual (JAGMAN) chapter 3, and NAVREGS, article 1150, *Redress of Wrong Committed by a Superior*, reference (l). If the superior is:

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(a) In the same command, complainant will submit a formal complaint (NAVREGS, article 1150) against that superior to the commander. If complainant considers the commanding officer's resolution unjust, submit a UCMJ, article 138.

(b) In another chain of command, complainant will submit the formal complaint to his/her commanding officer. The commanding officer will forward the complaint to the superior of the individual against whom the complaint is lodged. That superior will further forward it via his/her chain of command to the officer exercising general court-martial authority (GCMA) over the individual.

(3) UCMJ, Article 138. If the complaint is against complainant's commanding officer, submit a UCMJ, article 138, *Complaint Against Your Commanding Officer* reference (m). The complaint of wrong should be submitted via the chain of command to the person exercising General Court Martial Authority (GCMA) over the commanding officer. The complaint is reviewed and a report of proceedings is forwarded by the GCMA to the Judge Advocate General for review and final action by the Secretary of the Navy. Procedures are contained in JAGMAN, chapter 3. Individuals should be advised of their entitlement to military legal counsel for assistance in submitting this complaint.

c. Alternative Avenues for Lodging Complaints

(1) Communications with Inspectors-General. As an alternative to the normal chain of command, personnel may lodge complaints and provide facts to the Navy Inspector General (and command inspectors-general) - without fear of reprisal - concerning violations of laws, rules, and regulations; fraud, waste, or inefficiency; abuse of authority; or other misconduct. (See appendix F.)

(2) Individual Communications with Congress. A service member may write an individual letter to members of Congress per NAVREGS, article 1155.

(3) Prefer Charges. Complainants may lodge complaints as criminal charges within the military justice system.

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4. Complaints Related to Discharge and Records. Service members who desire correction of enlisted evaluation/officer fitness records should use the enlisted performance evaluations/officer fitness reports appeals process afforded by the Board for Correction of Naval Records (BCNR). To file a petition for a change in discharge classification, write to the BCNR or the Naval Council of Personnel Boards (Attn: Naval Discharge Review Board), Department of the Navy, Washington DC 20370. These boards will supply forms and instructions necessary for applying for redress.

5. Complaint Poster. The complaint poster publicizing the Navy's sexual harassment/discrimination complaint procedures will be permanently and prominently displayed at every command. This poster, "Navy Procedures for Processing Sexual Harassment/Discrimination Complaints for Military Personnel," S/N 0500-LP-754-3100, can be ordered through normal supply channels from the Naval Inventory Control Point.

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SECTION VI

INCIDENT HANDLING AND REPORTING (A COMMANDER'S GUIDE)

1. Discrimination/Sexual Harassment Incidents

a. Commander's Responsibility. In processing both discrimination and sexual harassment complaints, commanders must investigate and resolve all reported incidents at the lowest appropriate level. All incidents will be resolved promptly and with sensitivity. Confidentiality will be maintained to the maximum extent possible. Advocates will be assigned to both the complainant and the accused. Feedback will be provided to all individuals affected, consistent with the requirements of the Privacy Act. Reprisals against complainants or witnesses will not be tolerated. References (j) and (n) amplify the commander's responsibilities. Commanders will:

(1) Explain to individuals the procedures for resolving informal complaints, their right to submit formal complaints and the method for submitting formal complaints (including information on obtaining military legal counsel).

(2) Protect the privacy of the complainant, alleged offender, and witnesses through all stages of the process.

(3) Upon notification of a complaint, initiate an investigation within 1-3 days. Guidelines for a command investigating officer (IO) are provided in appendix J.

(4) Notify the complainant that the investigation has begun, on the same day that it begins.

(5) Carefully review the investigation to determine additional evidence needed to sufficiently resolve and/or document the issues. Accept the completed inquiry; if it is adequate, or initiate (a) an informal command inquiry; (b) a JAGMAN investigation; or (c) a UCMJ article 32 investigation.

(6) Advise alleged military offenders of their rights against self-incrimination as required by UCMJ article 31(b).

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Alleged civilian employee offenders must be accorded any rights required by applicable civilian personnel directives or local bargaining agreements.

(7) Closely coordinate with the command's/activity's legal advisor (from initial receipt of a complaint through final resolution and follow-up),

b. Complaint Processing

(1) In the event of minor incidents, individuals should be encouraged to use the IRS (reference (a)) to attempt to resolve their conflict. It is within the commander's discretion to forgo taking further formal action when a complaint has been resolved under the IRS and the complainant does not desire further action.

(2) For more serious complaints and for complaints that cannot be resolved by using the IRS, commanders (using the Navy Equal Opportunity/Sexual Harassment Formal Complaint Form) must initiate an investigation to get enough facts to fully assess the conduct that led to the complaint. Ensure that previous disciplinary action or poor judgment on the part of the complainant in no way invalidates or prejudices a discrimination or harassment complaint. After adequate inquiry, a commander is permitted to dismiss a complaint if it is unfounded.

(3) Commanders must be alert to the potential for reprisal against the complainant, accused, and witnesses. Reprisal can be overt or subtle: reduction of performance marks "out of the blue," otherwise unwarranted psychiatric evaluations, inequity in duty assignments, increased workload/watchstanding, or not recommending personnel for advancement, retention, or special programs. When reprisals are reported, commanders must aggressively determine the validity of such reports and, if they are valid, take prompt disciplinary action against violators. To maintain an environment free of reprisals, commanders should:

(a) Avoid ordering a mental health exam without careful compliance with reference (k).

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(b) Regularly emphasize the positive aspects of bringing to the command's attention acts of offensive or undesirable behavior.

(c) Periodically restate command policy against acts of reprisal, as well as the punishment that violators will receive.

(d) Actively follow the individual's performance and evaluations to ensure no reprisals are taken once a complaint has been initiated.

(e) Hold supervisors accountable for regularly documenting performance--especially in the case of declining performance--by maintaining personal counseling records, submitting special evaluations, and taking other remedial actions.

(f) Consider temporary removal of the accused during an investigation in those cases where alternative precautions are unlikely to be effective in precluding further harassment and reprisal. Examples where such removal is advisable include situations in which: both parties work in the same work center; there is a superior/subordinate relationship; or the alleged perpetrator is frequently unsupervised with members of the opposite sex, such as recruiters, instructors, and medical personnel. In extreme situations, consider transferring the complainant to another command (if he or she agrees) until the complaint is resolved.

(4) Possible command actions after the initial investigation may include:

(a) Referring/re-referring the case to Navy Criminal Investigative Service (NCIS).

(b) Forwarding the report to higher authority for disposition.

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(c) Disposing of the allegations at the command. Options include taking no action on unsubstantiated complaints (after appropriate investigation); counseling; admonition; extra military instruction; administrative withholding of privileges; adverse entries in fitness reports/evaluations/performance ratings; downgrading or revoking security clearances; detachment for cause; civilian termination; separation processing; non-judicial punishment (NJP); and courts-martial.

(5) It is a violation of reference (j) to *knowingly* make a false complaint of sexual harassment, but not a violation to *make an unsubstantiated complaint in good faith*. Proceed most cautiously when considering disciplinary action for a false complaint since, unless the evidence against the complainant is substantial, there can be a real risk that the command action could be perceived as reprisal. Prior consultation with the command legal advisor is essential.

2. Reporting Requirements

a. Complaints of discrimination or sexual harassment not resolved within 14 days of submission must be reported via message (OPREP followed by SITREP every 14 days thereafter until the complaint is resolved). Specific guidelines on message format and required data are outlined in appendix C.

b. Discrimination and Sexual Harassment (DASH). Document all reports of sexual harassment and discrimination. Report to Echelon 2 commands on a quarterly basis all formal complaints (substantiated or unsubstantiated) submitted on the NAVPERS 5354/2 Navy Equal Opportunity/Sexual Harassment Formal Complaint Form; complaints submitted under NAVREGS, article 1150, or UCMJ, article 138; and complaints substantiated at either NJP or courts-martial. Echelon 2 commands will forward quarterly reports to the Bureau of Naval Personnel (BUPERS), Pers-61, using the DASH system. Refer to appendix C for specific reporting guidance.

c. Special Incident Reporting (OPREP-3, Navy Blue, and Unit SITREP). Promptly alerting the chain of command may be warranted on particularly serious or sensitive cases. In making such

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reports, avoid reporting sensitive personal information such as personal identities. See OPNAVINST 3100.6G, sections X and XI, reference (o), and Immediate Superior in Command (ISIC)/Type Commander(TYCOM) guidance.

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SECTION VII

NAVY EQUAL OPPORTUNITY TRAINING

1. Navy's Equal Opportunity (EO) Training System: Introduction and Overview. The Navy's EO training system is designed to ensure individuals receive EO training commensurate with their level of leadership and responsibilities. Training at the command level serves to reinforce EO/sexual harassment (SH) prevention principles and requirements. Chief of Naval Education and Training (CNET) activities will coordinate "cradle to grave" training for all members in the leadership pipeline. The Defense Equal Opportunity Management Institute (DEOMI) trains Equal Opportunity Program Assistants (EOAs) and provides them with the skills necessary to advise commanders on EO/SH prevention issues which include training, assessment, action planning, and community liaison programs. DEOMI also conducts training for flag officers, EO program managers, and senior enlisted personnel filling key administrative billets. Specifics on course curricula and qualifications for participation are in appendix F.

2. Training Requirements

a. Career-Sequenced Approach. Navy EO training will be provided to all members at appropriate phases in their professional development, commensurate with their level of management responsibility and leadership position.

b. Focus of Training. EO training at identified training points will focus on three major areas: policy indoctrination, leadership skills, and the Navy's EO program.

(1) Policy Indoctrination. EO training at accession schools will instill the basic knowledge needed to function within the Navy environment. People entering the Navy are faced with not only a military culture but also a racially/ethnically diverse and mixed-gender workforce which functions under highly intense conditions in terms of time, space, and task. To facilitate adjustment, new personnel will be given a clear explanation of policy and the behavioral implications of the

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policy at all levels. This will also be addressed, as appropriate, in follow-on schools.

(2) Leadership Skills. EO is a leadership responsibility and will be addressed as such in all leadership curriculums. Training will be sequenced so that EO leadership principles presented at each school are tailored to the specific functions graduates are expected to fulfill. Material presented at the early stages of a naval career is reinforced and expanded upon at later stages.

(3) EO Program. Specific elements of EO, the Command Assessment process, and prevention of discrimination and sexual harassment shall be included at all levels of the leadership training continuum and any other leadership curricula that may exist in the Navy.

3. Command-Level Training

a. Commands are required to conduct EO/SH training for all hands through Navy rights and responsibilities (NR&R), required ninety days upon reporting, and annual command refresher training.

b. CNET is the CMEO training manager and the primary training source for CTTs and CATs. CTT and CAT members may receive training from Mobile Training Teams (MTT), CNET, or EOAs. Training may be routinely requested using established procedures to obtain quotas from CNET training sites at Naval Leader Training Unit, Little Creek, Virginia; Navy Education and Training Center (NETC), Newport, Rhode Island; Fleet Training Center (FTC), Mayport, Florida; Naval Leader Training Unit, Coronado, California; Submarine Training Center Pacific, Pearl Harbor, Hawaii; Submarine Training Center Pacific Detachment, Yokosuka, Japan; Navy Leader Training Unit Detachment, Rota, Spain; or Naval Education Training Program Management Support Activity (NETPMSA), Pensacola, Florida. Information on the location of EOAs may be obtained by contacting the EOA Community Manager (Pers-612C) at DSN 224-2007 or commercial (703) 614-2007.

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4. Policy and Training Coordination. All Navy EO/SH training, including procedures and material, is controlled and standardized by CNET with approval of content through the Chief of Naval Personnel.

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SECTION VIII

EQUAL OPPORTUNITY ISSUES

1. EO is a sensitive arena that encompasses a wide range of issues. The following provides guidance on some frequently addressed EO topics:

a. Religious Accommodations

(1) The First Amendment dictates that Congress shall make no law prohibiting the free exercise of religion. The Navy places a high value on the rights of Navy service members to observe the tenets of their respective religions.

(2) Reference (p) discusses policy to accommodate the doctrinal or traditional observances of the religious faith practiced by individual service members when the observance will not have an adverse impact on military readiness, individual or unit readiness, health, safety, or discipline. Accommodation of a service member's religious practices shall be given every consideration: religious practices should be accommodated except when so doing would jeopardize the command's mission.

b. Foreign Language

(1) Navy personnel must be capable of performing a wide variety of complex and potentially dangerous actions. A substantial portion of the communications involved in the daily operation of the unit are exercised via personal contact. Effective communication within a unit depends on smooth, orderly, and constant flow of information that is received, understood, and accepted by all.

(2) Commanders are responsible for promoting the morale, discipline, and effectiveness of all assigned personnel. It is incumbent upon them to ensure that personnel can safely and effectively carry out all assigned duties. Clear and effective communication among all personnel in the command will not only enhance operational effectiveness, but also foster unit morale and cohesion.

(3) Commanders may issue a written or oral order that only English may be spoken in the work place. It must be clear that the purpose of such an order is to foster uniformity of

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action and operations within the work place. Care must be taken not to implement this order tyrannically or capriciously (e.g., personnel engaged in personal conversation off-duty should be allowed to communicate in the language of their choice).

(4) Reference (q) provides further guidance.

c. National Heritage Observances

(1) Commanders are strongly encouraged to recognize the contributions and achievements of all Americans to the American culture through national heritage observances. Increased awareness of others' beliefs and values enhances leadership effectiveness and fosters understanding and appreciation for those of different ethnic/racial groups. Commanders may institute a "Cultural Diversity Fair" to recognize all ethnic/racial groups and their origins.

(2) Various national heritage observances are held annually in support of Joint Congressional Resolutions, Presidential Proclamations, and CNO Directives. Each of these observances recognizes the contributions and achievements of the many different groups that make up the Armed Forces and our society. They also provide an opportunity for commanders at all levels to enhance the human relations climate in their organization.

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APPENDIX A

DEFINITION OF TERMS

Affirmative Action. Methods used to achieve the objectives of the EO program. Processes, activities, and systems designed to prevent, identify, and eliminate unlawful discriminatory treatment as it affects the recruitment, training, assignment, utilization, promotion, and retention of military personnel.

Affirmative Action Plan (AAP). Comprehensive public document which sets forth goals and timetables to be met in recruiting and hiring and in striving to achieve EO for all personnel.

Command Assessment Team (CAT). Command personnel who are trained to assess and analyze command demographics.

Command Assessment Team System Survey (CATSYS). A computerized program that assists in administering, analyzing, interpreting, and presenting a command EO survey.

Command Training Team. Command personnel who are trained to provide EO training to command.

Commander. The head of a base, ship, squadron, unit or activity charged with the absolute responsibility for the safety, well-being, and efficiency of his/her command.

Complaint. An allegation of unlawful discrimination based on race, color, national origin, religion, or sex.

Complainant. A service member or civilian who submits allegations of unlawful discrimination.

Complaint Procedure. The process whereby individual complaints of discrimination/ sexual harassment are considered and acted upon.

Defense Equal Opportunity Council (DEOC). A senior executive-level decision-making body that provides advice and counsel to the Secretary and Deputy Secretary of Defense on all DOD EO

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Demographics. Factors found in a given population, such as age, race, color, ethnicity, national origin, gender, rank/paygrade, designator/rating, religion.

Discrimination. An act, policy, or procedure that arbitrarily denies equal treatment to an individual or a group of individuals because of race, color, religion, gender, age, national origin, or ethnicity.

Discrimination and Sexual Harassment (DASH) System. A computerized reporting system used by Echelon 2 commands to consolidate reports of discrimination and sexual harassment from subordinate activities and forward them quarterly to BUPERS.

DOD Military Equal Opportunity (MEO) Program. The DOD-wide military program of EO that is accomplished through efforts by the DOD components. It provides an environment in which service members are ensured an opportunity to rise to the highest level of responsibility possible in the military profession, dependent only on merit, fitness, and capability.

Equal Opportunity (EO). The right of all persons to participate in, and benefit from, programs and activities for which they are qualified. These programs and activities shall be free from social, personal, or institutional barriers that prevent people from rising to the highest level of responsibility possible. Persons shall be evaluated on individual merit, fitness, and capability, regardless of race, color, sex, national origin, or religion. "Fair and equitable treatment of all hands by all hands at all times."

Equal Opportunity (EO) Climate Assessment. Determining the health and functioning effectiveness of an organization by examining such factors as morale, teamwork, and communication. This is accomplished through some or all of the following: group and/or individual interviews, observations, surveys or questionnaires, and reviews of records and reports.

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Equal Opportunity Assistants (EOA). Formerly known as Equal Opportunity Program Specialist (EOPS), EOAs serve as EO advisers to commanders, generally at the Echelon 2 level. They provide briefings on all aspects of EO; facilitate formal CTT and CAT indoctrination courses and various seminars and workshops; conduct EO portion of ISIC inspections of subordinate commands; counsel personnel concerning EO issues and processing of discrimination and sexual harassment complaints; formulate and revise pertinent EO directives; write, edit, and publish documents on EO matters; and participate in EO meetings, conferences, and seminars.

Ethnic and Racial Categories. The basic racial and ethnic categories for DOD reporting are defined as follows:

- **American Indian or Alaskan Native.** A person having origins in the original peoples of North America.
- **Asian or Pacific Islander.** A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes China, India, Japan, Korea, the Philippine Islands, and Samoa.
- **Black (Not of Hispanic Origin).** A person having origins in any of the original peoples of Africa.
- **Hispanic.** A person having origins in any of the original peoples of Mexico, Puerto Rico, Cuba, Central or South America, or of other Spanish cultures, regardless of race.
- **White. (Not of Hispanic Origin)** A person having origins in any of the original peoples of Europe, North Africa, or Middle East.

Ethnic Group. A group socially distinguished or set apart by others and/or by itself, primarily on the basis of cultural or nationality characteristics.

Formal Complaint. Allegation of unlawful discrimination or sexual harassment that is submitted in writing to the authority designated for receipt of such complaints.

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Host Community. A civilian community located in or near a military facility.

Informal Complaint. Allegation of unlawful discrimination or sexual harassment, made either orally or in writing, that is not submitted as a formal complaint.

Informal Resolution System (IRS). A system for resolving EO/SH complaints at the lowest possible level in the chain of command. The IRS system is supported by an IRS skills booklet, posters, lesson plans, and Training Information Resource (TIR) libraries.

Legal Sufficiency Review. A review of an investigation into a formal complaint of unlawful discrimination or sexual harassment to determine whether the investigation complies with all applicable legal and administrative requirements; adequately addresses the matters complained of; the evidence supports the findings of the investigating officer or board; the conclusions and recommendations of the investigating officer or board are consistent with the findings; and whether any errors or irregularities exist, and, if so, their legal effect, if any.

Milestone. A specific date by which progress toward an objective is measured.

National Origin. An individual's or ancestor's place of origin. Also applies to a person who has the physical, cultural, or linguistic characteristics of a national group.

Off Limits. Area into which military personnel are not allowed.

Optimal Utilization. Part of the Navy EO policy which emphasizes the idea that all personnel must be assigned duties and responsibilities based on qualification, performance, and potential, rather than on criteria that reflect institutional biases and/or cultural stereotypes.

Prejudice. A system of beliefs, feelings, and action orientations regarding the members of a particular group.

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Protected Communication. A lawful communication to a Member of Congress, an IG, any member of a DOD audit, inspection, investigation or law enforcement organization, or to any other person or organization (including any person or organization in the chain of command) designated pursuant to regulations or other established administrative procedures to receive such communications, to which a member of the Armed Forces or civilian employee makes a complaint or discloses information that he or she reasonably believes evidences a violation of law or regulation (including those covering unlawful discrimination and sexual harassment), mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Race. A division of human beings identified by the possession of traits that are transmissible by descent and that are sufficient to characterize persons possessing these traits as a distinctive human genotype.

Racial Incident. An overt, damaging act directed toward an individual, a group, or an institution, whether spontaneous or organized by a certain group or an individual, which is clearly motivated by, or results in, discriminatory considerations.

Racism. Any belief, attitude, or practice that denies equal opportunity, treatment, and respect on the basis of race.

Racist. Any person who practices, or any means of expression that communicates, prejudice or discrimination on the basis of race.

Racist Organization. Any formal group which embraces a philosophy of racism.

Redress. To set right, rectify, or remedy.

Relief for the Complainant. Action taken by a commander for the benefit of the complainant.

Reprisal. Taking or threatening to take an unfavorable personnel action or withholding or threatening to withhold a favorable

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personnel action, or any other act of retaliation, against a military member for making or preparing a protected communication.

Religion. A personal set or institutionalized system of attitudes, moral or ethical beliefs, and practices that are held with the strength of traditional religious views, characterized by ardor and faith, and generally evidenced through specific religious observances.

Restrictive Sanctions. Action taken by a commander to keep military personnel from entering into a rental, lease, or purchase arrangement with, or moving into, a housing facility, the agent of which has been found to have discriminated against Department of Defense (DOD) personnel. Restrictive sanctions are effective against the agent and the facility and all other facilities owned or operated by the agent.

Sexism. Any belief, attitude, or practice that arbitrarily denies equal opportunity, treatment, and respect on the basis of gender.

Sexist. Any person who practices, or any means of expression that communicates, prejudice or discrimination on the basis of gender.

Sexual Harassment. A form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career, or; submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or; such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

Stereotype. A preconceived generalization associated with a race, ethnic group, or gender that goes beyond existing evidence.

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Supremacist. A doctrine, or an advocate thereof, based on the belief that a race, religion, ethnic group, or gender is inherently superior to any other.

Title VII. The section of the Civil Rights Act of 1964 which specifically prohibits discrimination in hiring, firing, and employment. The Equal Employment Opportunity Act of 1972 amended Title VII to place Federal employees under its coverage. The Civil Service Reform Act of 1978 defines prohibited personnel practices in the Federal Government.

Unlawful Discrimination. Includes discrimination on the basis of color, national origin, race, religion, or sex that is not otherwise authorized by law or regulation.

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APPENDIX B

NAVY EQUAL OPPORTUNITY (EO)/SEXUAL HARASSMENT (SH) FORMAL
COMPLAINT FORM (NAVPERS 5354/2)

1. The Navy Equal Opportunity (EO)/Sexual Harassment (SH) Formal Complaint Form is the primary means of reporting an EO or SH complaint. The form is divided into four parts that detail the steps involved in resolving a complaint. Instructions are provided on the form. Additional guidance is provided below:

a. Part I: Complaint

(1) To be considered a formal EO/SH complaint, the complaint form should be submitted in writing, under oath, and filed, preferably within 45 days of the incident. (Complaints filed after 45 days may be accepted at the discretion of the commander.)

(2) Commanders will designate personnel to administer the oath for formal complaints. Designated personnel must have the authority to administer oaths in accordance with the Manual of the Judge Advocate General (JAGMAN), section 0902. The person receiving the complaint must then submit the form to the commanding officer or designated authority within 1 calendar day of receipt.

(3) Requested remedy should focus on actions that would effectively resolve the complaint.

b. Part II: Complaint Support/Counseling

(1) An appropriate command representative (advocate) shall be assigned by the commander to ensure that each complainant, accused, and witness is informed about complaint processing and is advised of available support and counseling services. Advocates shall not be involved with the complaint in any way. Advocates should be E7 or above, if available, and must be senior to the complainant (except where impracticable or the complainant consents). When possible, assign a different advocate to each member of the case. In the event that a

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complainant, accused, or witness does not desire the services of an advocate, he or she must so state in writing.

(2) Part II of the form is to be completed by the command with details on locally available support services. The complainant should then be provided a copy and acknowledge receipt on the original complaint form (retained by the command).

(3) Acts of reprisal for submitting a formal or informal complaint are illegal and shall not be tolerated. Examples of acts of reprisal include reduction in fitness report/evaluation marks, inequity in watchstanding duties, increased workload/watch-standing assignments, medical/mental health evaluations, or withholding (or threatening to withhold) favorable personnel actions, when any such action is undertaken for the purpose of reprisal.

c. Part III: Complaint Processing

(1) The level of investigation of the alleged incident is based on the commander's evaluation of appropriateness to handle within the command. If necessary, the commander will request assistance from higher authority, or if the act is criminal in nature, forward to NCIS for investigation.

(2) An investigation must commence within 3 calendar days of submission of complaint.

d. Part IV: Notification, Review, and Follow-up

(1) On the same day the investigation begins, the complainant will be notified that it has begun and who is investigating, and will acknowledge this notification in writing on the complaint form.

(2) Once investigated, the complaint will either be substantiated, unsubstantiated (insufficient corroboration), or unsubstantiated (no corroboration), and the complainant and the accused will be notified.

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(3) Upon notification that the complaint has been resolved, the complainant has the right to request a review of the complaint by the next higher authority. (If the next higher authority is not a Flag Grade General Courts-Martial Convening Authority (FGGCMCA), the complainant may further appeal the results of any intermediate appeal(s) to the cognizant superior competent FGGCMCA as defined in JAGMAN, article 0129.) The complainant must submit an appeal request within 7 calendar days of the notification and include a statement identifying the findings and/or command actions that are disputed, the reasons they are disputed, and the nature of redress desired.

(4) The complainant should be debriefed 30-45 days after final action to obtain his or her views as to the effectiveness of the corrective action and the present command climate, and to ensure that there have been no incidents of reprisal or additional incidents of discrimination or sexual harassment. The complainant may submit follow-up comments with regard to the complaint. The commanding officer shall summarize details of the debrief for the record.

2. Milestones and Timelines

a. Complainants have 45 days from the date of the incident to file a complaint.

b. The person receiving a complaint has 1 day to refer the complaint to the appropriate authority for disposition.

c. The command has 24 hours to inform the complainant of available support/counseling services, make necessary referrals (if required), and assign command representatives to serve as advocates.

d. The disposition authority has 3 days from the initial notification to initiate an investigation.

e. Command resolution (completion of the investigation; determination of the validity of the charges; holding of any resulting nonjudicial punishment; preferring of charges if a court-martial is contemplated; notification to accused and

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accuser of command decisions) will normally be completed and complainant and accused informed of command decisions within 14 days of commencing investigations (60 days for Reserve units). If case is not resolved by 14 days after the initial complaint, case status must be reported by OPREP-3 with a follow-on SITREP every 14 days until the complaint is resolved. Commands must ensure that a final SITREP is forwarded, notifying case resolution.

f. Complainant has 7 days from notification of final resolution to ask for higher level review.

g. The command should request feedback from the complainant 30-45 days after all action is completed to determine the effectiveness of that action and to ensure that there has been no reprisal or repeat acts of discrimination or sexual harassment.

NAVY EQUAL OPPORTUNITY (EO)/SEXUAL HARASSMENT (SH) FORMAL COMPLAINT FORM

This form is for EO/SH complaints of military personnel. For EEO complaints of civilian employees, see Chapters 4 and 7, Commander's Handbook for Prevention of Sexual Harassment; OCPMINST 12713.2.)

AUTHORITY: 10 U.S.C. § 5013 (g) and E.O. 9397.

PRINCIPAL PURPOSE: Formal filing of allegations of reprisal, or of discrimination based on race, color, religion, gender, or national origin.

ROUTINE USES: Information provided on this form may be used: (a) as a data source for complaint information, statistics, reports, and analysis; (b) to respond to requests from appropriate outside individuals or agencies (e.g. Members of Congress, the White House) regarding the status of a complaint; (c) to adjudicate the complaint or appeal; (d) any other properly established routine use.

DISCLOSURE: Disclosure is voluntary; however, failure to fully complete all portions of this form may result in rejection of the complaint on the basis of inadequate data to assess complaint.

PART I - COMPLAINT

1a. COMPLAINANT'S NAME		1b. RANK/GRADE	1c. SSN
1d. UNIT	1e. RACE/ETHNIC GROUP	1f. GENDER	1g. DATE

1h. NATURE OF COMPLAINT. (State, in as much detail as possible, the basis for your complaint; describe the complained of conduct, date(n) of occurrence, names of involved parties, witnesses, or others to whom previous reports may have been made, other evidence that might be available, and any additional information which may be helpful in resolving your complaint. Attach additional sheets, as needed.)

1i. FILING DEADLINE. I UNDERSTAND THAT I HAVE 45 CALENDAR DAYS FROM THE DATE OF THE ALLEGED INCIDENT TO FILE A FORMAL EO COMPLAINT. This EO filing deadline does not affect alternative remedies which might apply. (Investigation of EO complaints received after 45 calendar days is discretionary with the cognizant commanding officer/activity head. If you are filing this complaint after 45 days, state the reasons for the delay.)

1j. REQUESTED REMEDY. (What, specifically, do you think the final outcome should be?)

1k. AFFIDAVIT. I, _____, have read the above statement which begins on this page (page 1) and continues on attached page(n), and I have initiated any changes. Having been duly sworn upon my oath I swear, or affirm, that the statement is true and correct to the best of my knowledge and belief, and that it is made freely without coercion, threat, or promise.

(Signature of Complainant)

Subscribed and sworn to before me, a person authorized to administer oaths (per JAGMAN chapter IX), this _____ day of _____, 19____ at _____.

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

2a. ACKNOWLEDGEMENT OF RECEIPT OF COMPLAINT. I acknowledge receipt of this complaint from _____ (name/rank) of _____ (command) on _____ (date)

I UNDERSTAND I HAVE 1 CALENDAR DAY TO REFER THE COMPLAINT TO THE APPROPRIATE AUTHORITY AND TO INFORM THAT AUTHORITY OF ANY INTERIM ACTION THAT IS TAKEN.

2b. NAME	2c. RANK/GRADE	2d. DATE
2e. UNIT/COMMAND		2f. SIGNATURE

PART II - COMPLAINANT SUPPORT/COUNSELLING

3a. REFERRAL TO COUNSELING AND SUPPORT SERVICES. THE COMPLAINANT SHOULD BE INFORMED OF/REFERRED TO AVAILABLE COUNSELLING AND SUPPORT SERVICES WITHIN 24 HOURS WITH FOLLOW-UP AS REQUIRED. (This part should be completed by an appropriate command representative. The complainant should be provided a copy and acknowledge receipt on the command copy.)

3b. THE FOLLOWING ARE AVAILABLE LOCALLY (complete the following as appropriate)--

(1) DSN Sexual Harassment Advice Line. For confidential counseling/advice for identifying and dealing with sexual harassment and similar inappropriate behavior. (Business hours Monday - Friday EST, toll free 1-800-253-0931, DSN 224-2735, commercial 703-614-2735, call collect from overseas.)

(2) Informal Resolution System (IRS). (Ref: IRS Skills Booklet, NAVPERS 15620.) Both military and civilian personnel are encouraged to utilize the IRS as a means of direct resolution of sexual harassment complaints (not clearly criminal in nature). The IRS can be employed either before pursuing other statutory and regulatory procedures or as a supplemental dispute resolution tool during formal discrimination complaints processing. For further information on the IRS contact (name, unit, phone number):

(3) Authorized command forums. The following command-sponsored councils and committees, ombudsman, command master chief, etc, are available (insert name, unit, phone number for each):

(4) Assignment of personal advocate. Commanders shall assign personal advocate to assist members in processing complaints. Personal advocate assigned (name, phone):

(5) Meet with the CO/OIC. Your right to communicate with the CO in a proper manner, time, and place may not be denied. Such requests shall be acted upon promptly and forwarded without delay. Local procedures are:

(6) Other local resources. (Insert local name, organization, phone number):

Family Service Center (FSC) _____

Equal Opportunity (EO) advisor _____

Medical Treatment Facilities (MTF) _____

Chaplain _____

Legal _____

(7) Communications with Inspector General. As an alternative to the normal chain of command, any person who doesn't feel comfortable filing complaints locally or no person can lodge complaints (anonymously if desired) via one or more of the available hotlines:

Naval Inspector General, toll free 1-800-522-3451, DSN 288-6743, commercial (202) 433-6743.

Marine Corps Inspector General, DSN 224-1349, commercial (703) 614-1349.

Atlantic Fleet Inspector General, toll free 1-800-533-2397

Pacific Fleet Inspector General, commercial (808) 471-0735.

Naval Forces Europe Inspector General, DSN 235-4188.

Naval Reserve Inspector General, DSN 363-1324, commercial (504) 948-1324.

(Insert local SYCOM, ISIC, local commanders' hotlines:)

(8) A servicemember may choose to communicate individually with members of Congress.

(9) Article 138, NAVPERS 1150 complaint. A servicemember who believes him/herself wronged by his/her CO or other superior officer may file a complaint as provided in JAGMAN chapter III. Assistance in filing such complaints may be available from the local Naval Legal Services Office.

(10) Other. (Attach additional pages as necessary):

3c. IF YOU SUSPECT THAT YOU (COMPLAINANT) ARE BEING SUBJECTED TO IMPROPER PERSONNEL ACTION (REPRISAL) AS A RESULT OF FILING THIS COMPLAINT, PLEASE CONTACT THE FOLLOWING IMMEDIATELY (insert name, phone):

3d. COMPLAINANT WAS ADVISED OF COUNSELING/SUPPORT SERVICES, REPRISAL ASSISTANCE, PROVIDED A COPY OF THIS FORM, AND OFFERED ASSISTANCE IN MAKING APPOINTMENTS.

3e. NAME OF COMMAND REPRESENTATIVE	3f. RANK/GRADE	3g. DATE
3h. UNIT/COMMAND	3i. SIGNATURE	
3j. COMPLAINANT'S ACKNOWLEDGEMENT _____ (Signature) _____ (Date)		

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PART 1.1 - COMPLAINT PROCESSING

4a. ACKNOWLEDGEMENT OF RECEIPT BY COMMANDING OFFICER/ACTIVITY HEAD. I acknowledge receipt of this complaint by _____ (name/rank) of _____ (date)

I UNDERSTAND I MUST INITIATE AN APPROPRIATE INVESTIGATION (OR ENSURE THAT ONE IS BEING CONDUCTED (E.G., BY NCIS) WITHIN 3 CALENDAR DAYS.

4b. NAME OF COGNIZANT CO/ACTIVITY HEAD

4c. RANK/GRADE

4d. DATE

4e. UNIT/COMMAND

4f. SIGNATURE

5. REFERRAL TO COUNSELING AND SUPPORT SERVICES (MANDATORY). If not already done, ensure compliance with Part II of this form. (COMPLAINANT MUST BE INFORMED OF/REFERRED TO AVAILABLE COUNSELLING/SERVICES WITHIN 24 HOURS, WITH FOLLOW-UP AS REQUIRED.)

6. OBTAIN LEGAL ADVISOR (HIGHLY ADVISABLE). Consult the command legal advisor at the outset and maintain close coordination through final resolution and follow-up.

7. OTHER PRELIMINARY CONSIDERATIONS (for details, see chapter 1 of the Commander's Handbook)

- a. Special Incident Reporting? (e.g., OPREP-3, Navy Blue, Unit SITREP per OPNAVINST 3100.6/TYCOM)
b. Major criminal offense?

(1) Referral to NCIS is mandatory (SECNAVINST 5520.3B).
(2) In interim preserve evidence, ensure members' safety, avoid compromising later investigation.
c. Special considerations for crime victims and witnesses (SECNAVINST 5800.11, OPNAVINST 1752.1).
d. Review other options under the UCMJ: e.g., conditions on liberty? pre-trial restraint? search?
e. Recommend informal resolution (IRS)? Unless the conduct is clearly criminal in nature, it is within the CO/IC/Activity head's discretion to forego taking further formal action when a complaint has been resolved under the IRS and the complainant does not desire further action.
f. Protect privacy. Protect individual privacy (both complainant's and alleged offending person) through all stages of the process. (SECNAVINST 5211.5D)
g. Important caution: DODDIR 6490.1 (14 Sep 93) Mental Health Evaluations of Members of the Armed Forces, (SECNAVINST 6320.xx) prohibits the use of referral by commands for mental health evaluations in reprisal, establishes rights for members referred by their commands for such evaluations, and imposes specific procedures which commands must follow in order to refer a member for a mental health evaluation.

8. INVESTIGATION OF THE COMPLAINT. MUST BE INITIATED WITHIN 3 CALENDAR DAYS--NOTIFY COMPLAINANT OF COMMENCEMENT SAME DAY (See part IV, item 1d). Unless another activity (e.g., NCIS) has cognizance, the complainant's command must promptly and appropriately investigate the complaint. The nature of the investigation will depend upon the CO's/Activity head's assessment of what more is required under the particular facts and circumstances (and chain-of-command directives) to sufficiently resolve/document factual issues. (For a command investigator's guide, see Appendix M of the Navy Commander's Handbook for Prevention of Sexual Harassment.) Completed investigation must be sufficient to permit any subsequent reviewers to clearly ascertain nature/source/analysis of evidence considered (including who was interviewed) and all pertinent facts developed. (Indicate type of investigation, investigating officer, date convened:)

9. INTERIM FEEDBACK/ASSISTANCE TO COMPLAINANT. TAKE PARTICULAR CARE TO AVOID RE-VICTIMIZING COMPLAINANTS (AND WITNESSES). Keep the complainant apprised of the status of the investigation (including any deadline extensions). Provide supplemental counseling/support assistance/referral as warranted. Ensure that all involved know that reprisal against the complainant will not be tolerated. (Recommend keeping a record of such feedback/assistance): _____

10. POSSIBLE COMMAND ACTIONS AFTER INVESTIGATION

- a. If warranted, initiate a formal, more in-depth investigation or refer/re-refer the case to NCIS.
b. Forward the report to another authority for disposition.
c. Dispose of the allegations at the command. Each commander/activity head generally has the discretion to dispose of offenses by members of that command. Options for disposition span the spectrum from taking no action on groundless complaints (after appropriate investigation) through counseling, exhortation, criticism, EMI, administrative withholding of privileges, entries in FITREPS/EVALS/performance ratings, revocation of security clearance, detachment for cause, civilian termination, separation processing, NJP, or court-martial. (See chapters 7 and 8 of the Navy Commander's Handbook for Prevention of Sexual Harassment for a more detailed listing of options for correcting offenders.)
d. Consider/implement command improvements based on lessons learned.

11. RESOLUTION TIME STANDARDS/REPORTING. RESOLUTION OF CASE SHOULD BE COMPLETED NOT LATER THAN 14 DAYS (60 DAYS FOR RESERVE UNITS) FROM INVESTIGATION COMMENCEMENT. Resolution includes: completion of investigation; determination of validity of complaint; holding NJP or preferring of charges (if court-martial contemplated); initiation of other appropriate action; notification to accused; and notification to complainant. IF TIME STANDARDS CANNOT BE MET, OPREP (SITREP IF OPREP PREVIOUSLY SUBMITTED) IS MANDATORY: explain reasons case is taking more time and request any assistance required (or state no assistance required). Submit follow-up SITREP's every 14 days until case resolved.

12. DOCUMENT COMMAND ACTION. Command records should permit reviewers to clearly ascertain/assess decisions reached. (Retain this form at least 3 years.) Also make appropriate entries in individual personnel records, if applicable. Finally, make any statistical reports required by the chain of command.

PART IV - NOTIFICATION, REVIEW, AND FOLLOW-UP (attach additional pages as required)**13a. NOTIFICATION OF INVESTIGATION COMMENCEMENT.** (NOTIFY COMPLAINANT SAME DAY.)**13b. COMPLAINANT'S ACKNOWLEDGEMENT**

(Signature) _____

(Date) _____

14a. NOTIFICATION OF ACTION TAKEN TO RESOLVE COMPLAINT. (TO OCCUR WITHIN 14 CALENDAR DAYS (60 DAYS FOR RESERVE UNITS) OF INVESTIGATION COMMENCEMENT. REPORT DELAYS VIA OPREP/SITREP.)

This complaint was investigated by _____ (name and rank)

of _____ (unit/command) and completed on _____ (date).

The complaint was found to be (mark one): ☐ Substantiated☐ Unsubstantiated (Insufficient Corroboration); ☐ Unsubstantiated (No Corroboration)

based on the following findings:

The following action has been taken/initiated by the command (ACTION: SRONAVINST 5211.5D generally precludes providing specific details on adverse actions against offender. Consult servicing Judge Advocate for further guidance.):

14b. COMPLAINANT'S ACKNOWLEDGEMENT

(Signature) _____

(Date) _____

14c. ACCUSED'S ACKNOWLEDGEMENT

(Signature) _____

(Date) _____

15a. COMPLAINANT'S RIGHT TO REVIEW BY HIGHER AUTHORITY. I acknowledge notice of my right to submit a statement concerning the investigative findings and command action taken, and to request review of those findings and actions by the next higher authority who is: _____**15b. I REALIZE ANY STATEMENT AND REQUEST FOR REVIEW MUST BE SUBMITTED WITHIN 7 CALENDAR DAYS OF TODAY'S DATE.****15c. I:**

(Initials) _____

DO NOT REQUEST REVIEW

(Initials) _____

REQUEST REVIEW

If review requested, indicate reason: _____

15d. COMPLAINANT'S ACKNOWLEDGEMENT

(Signature) _____

(Date) _____

16a. ACTION TAKEN BY REVIEWING AUTHORITY. The following action has been taken:**16b. NAME OF REVIEWING AUTHORITY****16c. RANK/GRADE****16d. DATE****16e. UNIT/COMMAND****16f. SIGNATURE****16g. COMPLAINANT'S ACKNOWLEDGEMENT**

(Signature) _____

(Date) _____

17a. COMPLAINANT'S FOLLOW-UP COMMENTS (The complainant should be debriefed 30-45 days after final action to assess complainant's views as to effectiveness of corrective action, present command climate, ensure the complainant has not suffered any reprisal, etc.) The complainant was debriefed on _____ (date) and had the following comments: _____**17b. COMPLAINANT'S ACKNOWLEDGEMENT**

(Signature) _____

(Date) _____

18. COMMANDING OFFICER'S FOLLOW-UP NOTES. (Indicate dates/nature of any actions prompted by complainant's debrief.)

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APPENDIX C

DISCRIMINATION/SEXUAL HARASSMENT MESSAGE REPORTING GUIDELINES

1. Discrimination/sexual harassment cases that cannot be resolved within 14 calendar days for active duty cases (60 calendar days for Reserve unit cases) must be reported to CNO by OPREP and at a minimum contain the following information:

a. Name of command reporting incident. ISIC will report for cases involving a commanding officer.

b. Command point of contact, commercial, DSN, and FAX phone numbers.

c. Report number. An initial report should be so marked. For a follow-up message to a previous report on the same incident, state "report number two" and provide date/time group for the initial report message.

d. Date of incident(s).

e. Date incident was first reported to command, and when applicable, reason for reporting delay.

f. Date investigation began, and when applicable, state reason for investigation delay.

g. Describe assistance needed or state "no assistance required."

h. Explain why the resolution has taken longer than 14 days.

i. General comments. Describe incident. Include rank, sex, age, and race/ethnic group of all members involved and any other amplifying information.

j. Omit names, social security numbers, or any other direct identification of those involved due to the sensitive nature of such message traffic.

k. Required information addressees are: BUPERS Washington DC//PERS-6/61//; NAVINSGEN Washington DC//JJJ//; Navy JAG Alexandria VA//01/06/13//; and the chain of command. For sexual assault cases, include BUPERS Washington DC// PERS-66//.

2. Discrimination and Sexual Harassment (DASH) Database Reporting Guidelines

a. Background. Formal DASH complaints within the Department of the Navy are compiled in the DASH database. Each quarter, Echelon 2 commands will submit consolidated formal DASH complaints for all of their subordinate activities to BUPERS (Pers-61), using the computerized DASH system. This is a licensed reporting requirement and is assigned Report Control Symbol OPNAV 5354-10.

b. Reporting Criteria

(1) A DASH incident is reportable whenever the recipient is a military member or military family member who is not a civil-service employee, and the complaint was reported formally.

(2) Incidents, both substantiated and unsubstantiated, will be reported in the quarter in which they occur. Because cases may take an extended period of time to be concluded, continuation reports will be filed as necessary to reflect any new developments, or, at a minimum, when the incident is closed. A case will be considered substantiated under any of the following circumstances:

(a) The commanding officer finds the complaint substantiated at NJP.

(b) The accused is found guilty at court-martial.

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(c) A UCMJ article 138 complaint has been substantiated.

(d) A NAVREGS article 1150 complaint has been substantiated.

(e) A complaint using the *Navy Equal Opportunity (EO)/Sexual Harassment (SH) Formal Complaint* form has been substantiated.

(f) An administrative separation has been approved, even if there was no court-martial conviction or awarding of punishment at NJP.

(g) The case has been substantiated and meets the criteria for administrative separation processing *but* the service member is retained.

(h) The complaint has been substantiated through a student board (USNA, NROTC).

Any cases not concluded as described above will be closed out as unsubstantiated. *The command at which the initial complaint was filed will file the close-out report, even if the complainant has transferred.*

Incidents will be reported by the command to which the complainant is permanently assigned. If the complainant is a military family member, the report will be filed by the command to which the sponsor was assigned at the time of the incident. Complainants in a temporary duty status will be reported by the command to which they are permanently assigned. Reports on recipients in a transient status will be filed by the command that processes the formal case. If one offender has harassed several people, a separate DASH report will be filed for each complainant.

c. Reports. All Echelon 2 commands are required to report all incidents received in the quarter to Pers-61 not later than 5

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working days of the second month following the end of the quarter (e.g., reports for third quarter FY95 are due no later than 5 working days into August). This will allow Echelon 2 commands 1 month to compile reports from subordinate commands. The dedicated modem line for DASH reports is (703) 614-2716. All DASH report files will be maintained by reporting commands for 2 years. See tab A to appendix C for the suggested format for Discrimination/Sexual Harassment Incident Reports.

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FORMAT FOR DISCRIMINATION/SEXUAL HARASSMENT INCIDENT REPORT
Input Sheet for DASH Program

A. General Information

1. Local incident number: UIC _____ FY _____
SEQ _____
2. Date reported: _____
3. Type of report: ___ Initial ___ Continuation ___ Final
4. Command submitting report and point of contact:

5. UIC of recipient's command: _____
(if family member, UIC of sponsor's command)

6. Date of incident: From _____ To _____
(if incident is ongoing, provide start date only)

7. Type of discrimination:

_____ Sexual Harassment	_____ Age
_____ Racial/Ethnic/National Origin	_____ Religious
_____ Other (specify)	_____ Sex (Gender)

8. Incident Location (select one):

_____ Aboard ship, at sea	_____ On-base, overseas
_____ Aboard ship, in port	_____ On-base, U.S.
_____ Off-base, overseas	_____ Other
_____ Off-base, U.S.	

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9. Incident reported through:

____ Navy Equal Opportunity (EO)/Sexual Harassment (SH)
Formal Complaint Form, NAVPERS 5354/2 (*Administrative Investigation*)
____ UCMJ article 138 ____ NAVREGS article 1150
____ Charge Sheet ____ Congressional Inquiry
____ Criminal Investigation ____ DOD Hotline
____ Navy Inspector General ____ Other

B. **Recipient Information**

1. Gender: M / F

2. Paygrade: _____

3. Race: ____ American Indian/Alaskan Native
 ____ Asian American/Pacific Islander
 ____ Black (Non-Hispanic)
 ____ Hispanic
 ____ White (Non-Hispanic)
 ____ Other (Specify _____)

4. Military/Civilian Status:

____ Military Component: _____ (*USN, USMC, USA, USAF*)
____ Civilian
____ Family Member

5. Alcohol use suspected: Yes / No / Unknown

C. **Alleged Offender Information**

1. Gender: M / F

2. Paygrade: _____

.

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3. Race: _____ American Indian/Alaskan Native
_____ Asian American/Pacific Islander
_____ Black (Non-Hispanic)
_____ Hispanic
_____ White (Non-Hispanic)
_____ Other (Specify _____)

4. Military/Civilian Status:

- _____ Military Component: _____ (USN, USMC, USA, USAF)
_____ Civilian
_____ Family Member

5. Relationship to recipient: _____
(e.g., CO, supervisor, subordinate, peer, unknown, other)

6. Alcohol use suspected: Yes / No / Unknown

D. Description of Incident

- E. Closure Code _____ Substantiated _____ Unsubstantiated
(check one *only* if this is the final report).

- F. Date Time Groups of all messages sent as a result of this incident.

NOTES

Local Incident Number. To identify and track cases, a three-

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element field will be assigned, consisting of the UIC of the recipient's command, the fiscal year in which the incident occurred, and the sequential incident number for that fiscal year. Number all incidents sequentially, regardless of whether they involve discrimination or sexual harassment (e.g., if the command's first incident is discrimination and is assigned local incident number 99999-95-01, and the next incident is sexual harassment, its local incident number should be 99999-95-02.)

Date Reported. The date the incident is entered into the DASH system.

Type of Report. If this is a status report of an ongoing incident, check "continuation." If the complaint is resolved, check "final report."

UIC. If the UIC of command submitting report is different from the UIC of the complainant's command, provide UIC of complainant's command. If the complainant is a civilian family member, provide the UIC of the sponsor's command.

Date of Incident: **From:** The date the incident becomes reportable.
To: The date the report is officially closed out. (*To indicate that the incident has not been resolved, leave this field blank.*)

Race. Provide the race of the complainant, regardless of the type of discrimination.

Closure Code. All reports must be followed through until the incident has been resolved. Incident resolution may be administrative or judicial. Regardless, a closure report must be sent up the chain of command to indicate whether or not the original complaint was substantiated.

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APPENDIX D

EQUAL OPPORTUNITY ASSISTANTS (EOA) DUTIES AND RESPONSIBILITIES

1. Basic Function. The EOA, formerly the Equal Opportunity Program Specialist (EOPS), is the principal advisor to the commander on the EO program. EO will be under the direction of the commander. The EOA will have NEC 9515 and will be ordered into an NEC 9515 coded billet by BUPERS.

2. Duties, Responsibilities, and Authority

a. Advise the commander on all matters related to EO policy and on command compliance.

b. Assist with the processing of EO/SH complaints.

c. Review formal EO/SH complaints and provide recommendations for flag endorsement/action.

d. Provide briefings on EO matters.

e. Assist in EO policy formulation.

f. Conduct EO random spot checks or technical assist visits at subordinate commands.

g. Conduct formal inspections of EO at subordinate commands.

h. Monitor CMEO status by conducting random spot checks and evaluating annual command assessment results forwarded by subordinate commands.

i. Coordinate reporting of formally resolved sexual harassment and discrimination incidents using the DASH database. Echelon 2 commanders will solicit quarterly DASH reports and forward them to BUPERS (Pers-61).

j. Provide training to Command Assessment Team (CAT), Command Training Team (CTT), and conduct assist visits.

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k. Counsel personnel on the procedures for resolving EO/SH complaints, both formal and informal. Provide guidance, advice, and assistance to subordinate commands regarding EO/SH matters.

3. Organizational Relationships. When assigned at the Echelon 2 or 3 level, the EOA has access to the commander (via the deputy/ chief of staff) on all EO matters requiring the commander's attention. At the Echelon 2 level, EOAs are administratively assigned to the staff inspector general. At the Echelon 3 level, they are administratively assigned to the deputy/chief of staff. Commanding Officers and Officers in Charge who do not have an EOA assigned, should request assistance from EOAs assigned at second and third level echelon commands.

APPENDIX E

CMEO OFFICER DUTIES AND RESPONSIBILITIES

1. Basic Function. The CMEO officer is an administrative coordinator for the CAT and CTT and functions as the single point of contact for EO matters at the command. Guidance for the assignment of CMEO officer is contained in section III.

2. Duties, Responsibilities, and Authority

a. Monitors CAT and CTT membership to ensure compliance with eligibility and training requirements. Maintains copies of all letters of appointment and ensures documentation of training in service records.

b. Maintains files and records on all EO matters, such as minutes of CAT and CTT meetings, command assessment reports and POA&Ms, EO/SH complaints, inspection reports, policy statements, and training/informational resources.

c. At least once a quarter, coordinates CAT and CTT briefings to the commander, to ensure that he or she is kept fully up to date on all EO matters.

d. Closely coordinates with local EOA.

e. Completes the CAT and CTT indoctrination courses, the Navy's EO correspondence course, and, if quotas are available, attends DEOMI Equal Opportunity Program Orientation for Managers course.

3. Organizational Relationships. The CMEO officer is a collateral duty, and as such, he/she reports to the commander via the executive officer.

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**APPENDIX F
EO RESOURCES**

1. Posters. Several standard stock posters pertinent to EO, including the prevention of SH, are available through the Navy supply system:

a. NAVPERS 15600A, Navy Procedures for the Processing of Sexual Harassment/Discrimination Complaints for Military Personnel, stock number. 0500-LP-754-3100.

b. NAVPERS 15619, Department of the Navy Sexual Harassment Advice Line, stock number. 0500-LP-542-9600.

c. NAVPERS 15626A, Resolving Conflict. . .Following the Light of Personal Behavior, stock number 0500-LP-543-2700.

2. Equal Opportunity/Sexual Harassment Advice Line. As a service of the Bureau of Naval Personnel Equal Opportunity Division, advice is provided to callers dealing with EO/SH incidents. The line is anonymous, toll-free, and may be used by members of the Navy and Marine Corps and Department of the Navy civilians. The numbers are 1-800-253-0931 (or 1-800-962-1425), DSN 224-2735, and COMM (703) 614-2735.

3. Hotlines. Individuals who do not feel comfortable filing a complaint within their normal chain of command can lodge a complaint (anonymously, if desired) via one or more of the following hotlines:

a. Navy Inspector General Fraud, Waste, and Abuse toll-free 1-800-522-3451, DSN 288-6743, or COMM (202) 433-6743.

b. Marine Corps Inspector General DSN 224-1349 or COMM (703) 614-1349.

c. Atlantic Fleet Inspector General toll-free 1-800-533-2397, DSN 564-6730, or COMM (804) 444-6730.

d. Pacific Fleet Inspector General COMM (808) 471-9981.

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e. Naval Forces Europe Inspector General (01144-171) 514-4188/4484/4513.

f. Naval Reserve Inspector General DSN 363-1324 or COMM (504) 948-1324.

g. TYCOM, ISIC, and local commanders' hotlines.

h. EOA Community Manager (Pers-612), DSN 224-2007, and Family Service Centers Support Section (Pers-661C), DSN 227-6550.

i. Communications with members of Congress.

j. The local Civilian Employee Assistance Program (CEAP) and local Equal Employment Opportunity (EEO) Office.

4. Equal Opportunity Training. DEOMI offers a variety of EO courses. Quotas can be obtained through Pers-612 at DSN 224-2007 or COMM (703) 614-2007.

a. EO Advisor Staff Course. The course is 16 weeks in length and is designed for EOA (NEC 9515). The requirements for an EOA can be found in the Enlisted Transfer Manual, chapter 9, under Special Programs; the job description, in the NEC manual. This training is normally made available in conjunction with a permanent change of station and is offered three times a year. For further guidance, contact Pers-61 at DSN 224-2007 or COMM (703) 614-2007, or Pers-4010 at DSN 225-9316 or COMM (703) 695-9316.

b. Equal Opportunity Program Orientation for Managers Course. The course is 2 weeks in length and is offered five times a year. It is designed to give an overview of DOD EO issues and action strategies necessary for effective management of an EO program. Due to limited availability of quotas allocated to the Navy, selectees assigned as EO advisors or CMEO officers at isolated areas, overseas locations, or on sea duty will get priority.

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c. Senior NCO EO Workshop. This 5-day workshop is designed for command master chiefs to increase awareness of the impact of EO issues on unit cohesion, mission accomplishment, and combat readiness.

5. Electronic Bulletin Board. DEOMI offers an informational electronic bulletin board on DOD EO issues for use by all services. Topics include extremist groups, statistics on all the major ethnic groups, and gender and religious issues. The bulletin board can be accessed by contacting DEOMI at DSN 854-2675 or COMM (407) 494-2675.

6. Command Assessments

a. Command Assessment Team System Survey (CATSYS). CAT members receive CATSYS training during the 2-day Command Assessment Team Indoctrination (CATI) Course. Commands may order the CAT Step by Step Guide for Conducting Command Assessments and software (stock number 0502-LP-479-6100) from Naval Inventory Control Point in Philadelphia.

b. Military Equal Opportunity Climate Survey (MEOCS). DEOMI offers a climate assessment survey to commanding officers of all services to assess the EO climate of a command. This survey can be requested by contacting DEOMI at DSN 854-2675 or COMM (407) 494-2675. This survey can be used as a supplement to the CATSYS.

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APPENDIX G

EQUAL OPPORTUNITY (EO) CHECKLIST

EO is an essential element of continual process improvement to enhance quality of life. To ensure the basic systems are in place to promote a positive command climate, the following, as a minimum, must be accomplished:

*Command Managed Equal Opportunity (CMEO)*1. Command Training Team (CTT)

- a. Are CTT members formally trained? Is the training documented in their service records?
- b. Is CTT size appropriate for the number of personnel assigned to the command?
- c. If any CTT member has not performed as a CTT member for over 24 months, has required repeat training been completed?
- d. Are CTT members in paygrade E6 or above?

2. Navy Rights and Responsibility (NR&R) Workshop and Command-Specific Training

- a. Is the command conducting NR&R workshops for all newly reporting personnel within 90 days of reporting? Are critique sheets used?
- b. Are all NR&R subjects presented as outlined in CNET developed lesson plans? Is the entire 8-hour training session efficiently used?
- c. Is NR&R workshop training documented in each member's training record or service record?
- d. Is the command conducting annual command-specific training for all hands?

3. Command Assessment Team (CAT)

- a. Are CAT members formally trained? Is the training documented in training records or service records?
 - b. If any CAT member has not performed as a CAT member for over 24 months, has required repeat training been completed?
 - c. Does membership include, at a minimum, the executive officer, one department head, command career counselor, personnel officer, legal officer, CTT leader, and CMEO officer?
 - d. Does the CAT meet quarterly (at a minimum)?
 - e. Has the command conducted a command assessment within 6 months after change of command? Was the CATSYS used to administer the survey? Are follow-on command assessments conducted annually?
 - f. Are the results of command assessments and supporting documentation maintained for at least 36 months?
 - g. Is the command conducting follow-up reviews on POA&M action items?
 - h. Are command personnel regularly debriefed on the status of command assessment action items (e.g., Captain's Call, Quarters, Plan of the Day)?
4. Is the CMEO officer properly appointed and trained?

Policy and Procedures

1. Is the EO manual complete as required in OPNAVINST 5354.1D?
2. Has the commander clearly and strongly stated command policy on EO in writing, including the prevention of sexual harassment, and on prohibiting reprisals against individuals who submit complaints? Is policy issued throughout the command?
3. Is command policy consistent with current DOD, SECNAV, and OPNAV directives?

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4. Has the commander ensured that all hands have received Informal Resolution System (IRS) skills training?
5. Are command personnel apprised of their rights and responsibilities regarding submission of a formal complaint?
6. Is the NAVPERS 5354/2 Navy Equal Opportunity (EO)/Sexual Harassment (SH) Formal Complaint Form readily available to command personnel? Are command personnel aware of the avenues of formal complaint?
7. Are posters displayed so all hands are aware of sexual harassment/discrimination complaint procedures, the EO/SH Advice Line, and the IRS system?
8. Is annual SH training conducted? Is SH training documented on page 13 in service records?
9. Are complaints tracked to ensure resolution?
10. Are discrimination and sexual harassment cases not resolved within 14 days reported to CNO via OPREP-3 and follow-on SITREPS?
11. Does the command maintain data and disposition files of discrimination/sexual harassment complaints? Is the command making required quarterly reports of incidents of sexual harassment/discrimination that reach a formal level of resolution?
12. Does the command acknowledge ethnic observances?
13. If assigned, are EOAs fully employed? If an EOA is not assigned, are EOAs requested for assistance on EO matters?

Career Development

1. Are minorities and women given equal opportunity in assignments?
2. Have qualified personnel been identified, encouraged, and counseled to apply for commissions?
3. Are assignments and collateral duties being made on the basis of talent and ability?

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4. Is the service member's support of EO considered when he or she is being evaluated? Are command members aware that this is an important area of evaluation?

5. Do supervisors participate in unit EO training as instructors, discussion leaders, or as resources for answering questions?

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APPENDIX H
SAMPLE POLICY STATEMENT

U S S F A I R W I N D S
Policy on Prevention of Discrimination and Sexual Harassment

Discrimination and sexual harassment in the Federal workplace are against the law. These unfair practices will not be tolerated here. We must all be sensitive to any occurrence of these practices, and use every means at our disposal to eliminate them, so that we may all enjoy fair treatment and equal opportunity here at this command and throughout the Navy.

To begin, a definition of terms: Discrimination is an act, policy, or procedure that arbitrarily denies equal treatment to an individual or a group of individuals because of race, color, religion, gender, age, national origin, or ethnicity. Sexual harassment is a form of sex discrimination that involves unwelcome sexual advances, and other physical or verbal conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career; or
2. Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting him or her; or
3. Such conduct has the purpose or effect of unreasonably interfering with his or her performance or creates an intimidating, hostile, or offensive working environment.

Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a service member or civilian employee **is engaging in sexual harassment**. Similarly, any service member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature **is also engaging in sexual harassment**.

The "Reasonable Person" standard will be used to determine whether behavior constitutes discrimination or sexual harassment.

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This objective standard considers what a reasonable person's reaction would have been under similar circumstances and in a similar environment. This standard considers the recipient's perspective and not stereotyped notions of acceptable behavior. For example, a work environment in which racial/sexual slurs, the display of sexually suggestive calendars, or other offensive discriminatory/sexual behavior abound would be a sexually harassing environment to a reasonable person—even if those who work there think that kind of behavior is harmless or insignificant. By the same token, a reasonable person would not consider a group of men in summertime jogging gear to be suggestive, even if someone else did.

Discrimination and sexual harassment, then, involve conduct that a reasonable person would find discriminatory or sexual in nature, in light of the relevant facts and circumstances. This means that behavior does not necessarily have to be overt to create an offensive work environment. Examples of more subtle sexual harassment include racial/sexist jokes or slurs, sexual advances, displays of pornographic material, language, gestures, mannerisms, and similar behavior.

Discrimination and sexual harassment are prohibited in the workplace, in any other place that is work-connected, and in the conditions or atmosphere under which people are required to work. Examples of work environment include, but are not limited to, an office, an entire office building, a DOD base or installation, DOD ships, aircraft or vehicles, and anywhere when engaged in official DOD business, as well as command-sponsored social, recreational, and sporting events, regardless of location.

No individual shall:

1. Commit unlawful discrimination or sexual harassment.
2. Take reprisal against a person who provides information on an incident (a reprisal is the wrongful threatening or taking of either unfavorable action against another, or withholding favorable action from another, solely in response to a report of discrimination or sexual harassment).
3. Knowingly make a false accusation of discrimination or sexual harassment.

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4. While in a supervisory or command position, condone or ignore discrimination or sexual harassment of which he or she has knowledge or should have knowledge.

These rules are regulatory orders, apply to all DON personnel individually without further implementation, and may be enforced through punitive, disciplinary, or administrative action under military or civilian systems, including punishment for violation of a lawful general order under UCMJ article 92.

Reports of discrimination and sexual harassment will be thoroughly investigated. Disciplinary action will be swift in substantiated cases, including those cases involving supervisors who condone or ignore such misconduct.

Military and civilian personnel alike are encouraged to use the Informal Resolution System (IRS) as a means of direct resolution of discrimination or sexual harassment complaints (not independently criminal in nature). The IRS was designed to complement—not replace—current formal procedures for resolving complaints of discrimination. The IRS provides an opportunity for the individuals involved to resolve the conflict at an informal level.

[Add command-specific material as desired.]

The prevention of discrimination and sexual harassment exemplifies the Department of the Navy's goal to uphold the highest standards of leadership and personal conduct. Each leader/manager/supervisor is responsible and accountable for providing training and guidance to his/her personnel and taking prompt, appropriate corrective action upon encountering evidence of inappropriate conduct.

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Discrimination and sexual harassment are demeaning, inappropriate, and absolutely unacceptable. They undermine unit cohesion and will not be tolerated in any form aboard USS FAIR WINDS. I expect every civilian and military member of this command to support this policy and to work with me to achieve an environment free from all forms of unlawful discrimination.

A. B. SEA

Captain, U.S. Navy

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APPENDIX I

SAMPLE PLAN OF THE DAY NOTES

1. SECNAVINST 5300.26B makes clear that the prohibition against sexual harassment may be enforced through punitive, disciplinary, or administrative action under military or civilian systems, including punishment for violation of a lawful general order under article 92(1) of the UCMJ.

2. The Navy team must be comprised of an optimally integrated group of men and women able to work together to accomplish the mission. Each member is entitled to be treated fairly, with dignity and respect, and must be allowed to work in an environment free of unlawful discrimination.

3. Sexual harassment is prohibited. The DON is committed to maintaining a work environment free from unlawful discriminatory practices and inappropriate behavior. All DON personnel, military and civilian, will be provided a work environment free from sexual harassment.

4. Discrimination means the illegal treatment of a person or group based on handicap, race, color, national origin, age, religion, or sex. Sex discrimination refers to the practice of wrongfully treating men and women differently in the workplace, solely because of their sex.

5. Sexual harassment is a form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

a. Submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career; or

b. Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting him or her; or

c. Such conduct has the purpose or effect of unreasonably interfering with his or her performance or creates an intimidating, hostile, or offensive working environment.

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Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a service member or civilian employee **is engaging in sexual harassment**. Similarly, any service member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature **is also engaging in sexual harassment**.

6. The "Reasonable Person" standard will be used to determine whether behavior constitutes discrimination or sexual harassment. This objective standard considers what a reasonable person's reaction would have been under similar circumstances and in a similar environment. This standard considers the recipient's perspective and not stereotyped notions of acceptable behavior. For example, a work environment in which racial/sexual slurs, the display of sexually suggestive calendars, or other offensive discriminatory/sexual behavior abound would be a sexually harassing environment to a reasonable person — even if those who work there think that kind of behavior is harmless or insignificant. By the same token, a reasonable person would not consider a group of men in summertime jogging gear to be suggestive, even if someone else did.

7. Discrimination and sexual harassment involve conduct that a reasonable person would find discriminatory or sexual in nature, in light of the relevant facts and circumstances. Behavior does not need to be overtly sexual if it creates an offensive work environment. Examples include sexist remarks or slurs, sexual advances, displays of pornographic material, touching, language, gestures, mannerisms, and similar behavior.

8. Sexual harassment is prohibited in the workplace, in any other place that is work-connected, and in the conditions or atmosphere under which people are required to work. This means that behavior does not necessarily have to be overt to create an offensive work environment. Examples of more subtle sexual harassment include racial/sexist jokes or slurs, sexual advances, displays of pornographic material, language, gestures, mannerisms, and similar behavior.

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9. No individual in the DON shall commit sexual harassment, take reprisal against a person who provides information on an incident of alleged sexual harassment, knowingly make a false accusation of sexual harassment, or while in a supervisory or command position, condone or ignore sexual harassment of which he or she has knowledge or has reason to have knowledge. These rules are regulatory orders, apply to all DON personnel individually without further implementation, and may be enforced through punitive, disciplinary, or administrative action under military or civilian systems, including punishment for violation of a lawful general order under UCMJ article 92.

10. The Informal Resolution System (IRS) was established by the Secretary of the Navy to resolve conflict at the lowest possible level. The IRS emphasizes the Navy's core values: Honor, Courage, and Commitment. Under the IRS, each person has a responsibility to be a role model of appropriate behavior and confront inappropriate behavior when observed or brought to his/her attention. In general, each individual's responsibilities are: do not ignore; review options; and take action to resolve.

11. Military and civilian personnel alike are encouraged to use the Informal Resolution System (IRS) as a means of direct resolution of discrimination or sexual harassment complaints that are not independently criminal in nature. The IRS was designed to complement - not replace - current formal procedures for resolving complaints of discrimination. The IRS provides an opportunity for the individuals involved to resolve the conflict at an informal level.

12. Information on the Informal Resolution System (IRS) is contained in the IRS Skills Booklet. If you don't have a copy, see [insert local name/phone].

13. "Red Zone" sexual harassment is **always** unacceptable. Examples include seeking sexual favors in return for favorable evaluation, making supervisory decisions based on race/gender, hate mail, rape, assault. Clearly criminal "red zone" behavior must be reported through official channels.

14. "Yellow Zone" behavior is inappropriate to most people. Examples include racial/sexual slurs, comments, jokes, sexually

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suggestive touching. Whenever people repeat this kind of behavior, especially after being told that it is offensive, yellow-zone behavior turns to red and becomes definitely unacceptable.

15. "Green Zone" behavior is always acceptable. Examples include counseling on performance, military appearance, normal social interaction, polite compliments, and friendly conversation.

16. Under the direct approach of Informal Resolution System (IRS), a recipient of sexual harassment may elect to resolve interpersonal conflict directly with the offending person.

17. Under the "informal third party" approach of the Informal Resolution System (IRS), a recipient of sexual harassment (or the offending person) may elect to enlist the informal assistance of some other person to help resolve interpersonal conflict.

18. Under the Informal Resolution System (IRS), anyone can ask (anonymously, if desired) for generic, non-accusatory command training from a Training Information Resource (TIR). (The CO determines if a TIR is appropriate to address the issue.) TIR requests may be submitted *[provide command-specific details, including how to submit anonymous requests]*.

19. No individual may take or condone reprisals against a person who provides information on an incident of alleged sexual harassment. A reprisal is the wrongful threatening or taking of either unfavorable action against another, or withholding favorable action from another, solely in response to a report of discrimination or sexual harassment. Reprisal can be overt or subtle: reduction in fitness report/evaluation marks "out of the blue"; inequity in duty assignments; increased workload/watchstanding; or not recommending personnel for advancement, retention, or special programs.

20. Incidents of sexual harassment cover a wide range of behaviors, from spoken comments to rape. Likewise, the full range of administrative and disciplinary actions are available to address sexual harassment. These include informal counseling, comments in fitness reports and evaluations, administrative

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separation, punitive measures under the UCMJ, or criminal prosecutions.

21. The Navy's Sexual Harassment Advice Line is available to all DON military and civilian personnel during business hours, Monday through Friday EST, for obtaining confidential counseling and advice for identifying and dealing with sexual harassment and similar inappropriate behavior. Call toll free 1-800-253-0931, DSN 224-2735, or COMM (703) 614-2735.

22. Commanders and supervisors are responsible for leading the men and women under their control. They must set the example in treating all people with mutual respect and dignity, fostering a climate free of all forms of discrimination, and eliminating sexual harassment.

23. All personnel are responsible for treating others with mutual respect and dignity. This means fully and faithfully complying with the Navy's policy of zero sexual harassment. All DON personnel are accountable for their actions.

24. One form of sexual harassment occurs when the unwelcome sexual behavior of one or more persons produces a work environment that is offensive, intimidating, or abusive to a reasonable person.

25. Quid pro quo (this for that) sexual harassment occurs when submitting to, or rejecting, unwelcome sexual behavior is used as a basis for decisions affecting any person's employment, job, pay, or career. This could be a promise of employment, a promotion, a threat of or an actual demotion, a duty assignment, or a positive or negative performance evaluation.

26. Assistance for those who believe they have been sexually harassed or otherwise discriminated against is available from *[insert applicable hotlines, counseling numbers, names of EO/EEO counselors and officials, local command and shore-based support or referral resources such as Human Resources Management personnel, EO advisors, Medical Treatment Facilities (MTFs), chaplains, Naval Legal Service Office, etc.]*.

27. A service member may request mast with the CO under NAVREGS articles 0820 and 1151, 1152, 1156. A service member's right to

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communicate with the CO in a proper manner, and at a proper time and place, may not be denied or restricted. Any such requests shall be acted upon promptly and forwarded without delay.

28. Service members who believe themselves wronged by their CO or other superior officer, and who have been refused redress after due application to that officer, shall not fail in maintaining a respectful bearing toward such superior, but may report their allegations to proper higher authority in the manner provided in UCMJ article 138, NAVREGS article 1150, and JAGMAN chapter III. Counsel may be available at the cognizant Naval Legal Service Office (NLSO) to assist eligible personnel in preparing such complaints. For further assistance, call *[insert appropriate NLSO number]*.

29. Local procedures for processing discrimination complaints and available avenues of resolution and redress are *[insert details applicable to command]*.

30. Recognize that you are personally accountable for your actions; continually strive for individual excellence in your personal ethics.

31. Just because conduct isn't sexual harassment doesn't necessarily mean it's okay. Even welcomed conduct is improper if it involves using official position for private gain, giving preferential treatment, use of official time for unofficial activities, use of Government property for unauthorized purposes, and unauthorized giving/accepting of gifts. (See DODDIR 5500.7 of 30 August 1993, *Standards of Conduct*; DODDIR 5500.7-R, *Joint Ethics Regulation (JER)*; and ALNAV 139/93.)

32. Just because conduct isn't sexual harassment doesn't necessarily mean it's okay. Even welcomed conduct is improper if it involves fraternization prohibited by NAVREGS article 1165 and OPNAVINST 5370.2A. Fraternization can involve sexual conduct such as dating, cohabitation, or sexual relations, but it is a gender-neutral concept and can also involve non-sexual conduct, such as an inappropriate business partnership for private gain. Fraternization includes:

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- ☐ Any officer-enlisted personal relationship that is unduly familiar and does not respect differences in rank and grade.
 - ☐ Any officer-officer or enlisted-enlisted personal relationship that is unduly familiar and does not respect differences in rank and which is prejudicial to good order and discipline, or is of a nature to bring discredit upon the naval service. Such circumstances include those which call into question a senior's objectivity, result in actual or apparent preferential treatment, undermine the authority of a senior, or compromise the chain of command. Such unduly familiar relationships are specifically prohibited when the parties are in a direct senior/subordinate relationship in the same military chain of command and normally will also be inappropriate in the following instances, even when there is no direct supervisory relationship: staff/student or CPO/junior (E6 and below).
33. All personnel will be afforded equality of opportunity in training and advancement. Assignments and duties will be based on talent and ability, irrespective of what is traditional or non-traditional.
34. Do you know what these acronyms stand for: USNA, NAPS, NROTC, BOOST, ECP, OCS, AOCS, LDO, CWO? All involve types of programs for enlisted personnel to obtain officer commissions. For more information, contact *[insert appropriate name/phone]*.
35. Did you know that your FITREP, EVAL, or performance appraisal will reflect your compliance and support of sexual harassment prevention policy objectives? Make every effort to ensure your marks are "5.0"!
36. *[Publicize members' accomplishments.]*
37. *[Recognize significant historical events and achievements ensuring that there is a diversity of male/female and broad ethnic representation.]*
38. *[Publicize and encourage unit members to participate in host community affairs.]*

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39. The Civilian Employee Assistance Program (CEAP) is responsible for developing and maintaining appropriate prevention, treatment, and rehabilitation programs and services for Federal civilian employees with alcohol and/or drug problems. CEAP may also offer assistance for other emotional problems that impact adversely on job performance. Program services may also be extended, to the extent feasible, to families of employees who have drug or alcohol problems and employees with family members who have alcohol or drug problems. For further information, contact [insert local POC]. (Reference: OCPMINST 12792.1 (CPI 792).)

40. The Informal Resolution System (IRS) skills booklet, *Resolving Conflict. . . Following the Personal Light of Behavior* (NAVPERS 15620), is your guide to resolving conflict at the lowest possible level. For a copy, contact [insert command representative].

41. The primary method for filing an EO/SH complaint is to use the Navy Equal Opportunity (EO)/Sexual Harassment (SH) Formal Complaint Form (NAVPERS 5354/2). Complainants have 45 days from the date of an incident to file the complaint with the command. The form requires that the complainant swear to the allegations and that the command provide an advocate to the complainant. Contact [insert command representative] for a copy of the form and assistance in filing a complaint.

42. [Publicize the command's policy against acts of reprisal and the punishment that violators will receive.]

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APPENDIX J

GUIDELINES FOR THE COMMAND INVESTIGATING OFFICER (IO)

1. Purposes of Investigation. Develop a written record; lay out the facts; draw a clear picture; document witness statements; obtain and preserve other pertinent evidence; serve as decision-making tool; provide a reference point for justifying actions taken; foster trust in the resolution process by demonstrating command commitment and allowing affected personnel an opportunity to be heard; establish credibility and objectivity; provide a foundation for subsequent decisions by the CO/OIC/activity head; and protect morale and productivity.

2. Nature of Investigation. Always neutral and impartial; primarily, a fact-finding quest to determine exactly what happened; secondarily, a search for solutions; generate opinions only after completion of fact-finding (communicate opinions only to appropriate command authority, never to witnesses or parties).

3. Before starting, thoroughly familiarize yourself with:

a. Guidance, instructions, and/or supplemental material provided by your command

b. OPNAVINST 5354.1D, Navy Equal Opportunity Manual

c. SECNAVINST 5300.26B, Department of the Navy Policy on Sexual Harassment (especially par. 8 and enclosures (1) and (2))

d. Informal Resolution System (IRS) skills booklet (*Resolving Conflict. . . Following the Light of Personal Behavior*, NAVPERS 15620).

4. Know Your Objectives

a. Review the specific allegations to identify the issues that need to be investigated. Develop a plan to specifically address all apparent issues (and consider developing a list of questions to pursue). (Be prepared to adjust your plan as warranted by developments during the course of the investigation.) Be sure to comply with any specific command requirements. If you aren't sure how to proceed (whether before, during, or after the investigation), get clarification from the command.

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b. The materials listed in paragraph 3 will help give you the necessary frame of reference to pursue your primary objective: collecting all relevant evidence in order to establish the factual basis for determining whether inappropriate conduct occurred, plus any related information that might affect the proper disposition of the case. Items of interest include the parties' currently assigned duties; evaluation of performance; attitudes and ability to get along with others; and particular personal difficulties or hardships they are willing to discuss.

5. Maintain confidentiality to the maximum extent practicable. Avoid identifying the persons involved except as may be necessary to get all the necessary evidence. Do not discuss the nature or progress of your inquiry with anyone who doesn't have a need to know.

6. Gather and Preserve All Relevant Evidence

a. Interview all persons who might possess relevant information

(1) Interview the person initiating the allegations first, then any known witnesses, then any other witnesses identified during these interviews. Interview those witnesses identified by the complainant.

(2) Next interview the accused. Then interview any witnesses suggested by the accused.

(3) Finally, re-interview as necessary.

(4) See paragraph 7 for interviewing guidelines.

b. Gather and preserve any documentary evidence.

Documentary evidence, such as letters, notes, counseling sheets, written or printed material, instructions, or watchbills, should be obtained and attached to the report. If unable to provide originals, explain why (and if possible, attach copies).

c. Gather and preserve any real evidence. Real evidence is a physical object, such as a picture, greeting card, or token of affection. The IO may receive any such items voluntarily given

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by the witnesses and safeguard them until final disposition of the case. If the IO needs any such evidence from a person not willing to release it, the IO should consult the judge advocate or other legal counsel advising the command.

7. General principles for conducting interviews

- a. Treat everyone with dignity and respect.
- b. Tell each interviewee who you are, what you are doing, and why you are talking to him or her.
- c. Maintain a reasonable tone of voice. Be careful not to use threatening mannerisms or body language.
- d. Listen. Keep an open mind. Do not filter. Try to understand each person's point of view.
 - (1) Let each witness tell his or her story.
 - (2) List points to ensure that you elicit all the information needed to specifically address each allegation.
 - (3) Interrupt for clarification.
 - (4) Interrupt or return later for details.
 - (5) Use written questions or phone interviews for absent witnesses.
- e. Avoid re-victimizing complainants (or witnesses). Investigate the complaint, not the complainant. However, if in the course of the investigation, it appears that the complainant has committed a criminal offense or other misconduct, immediately apprise the command and seek legal advice in regard to whether applicable rights should be given. Apprise the command immediately if it appears that counseling support and/or referral services might be warranted.
- f. Give any persons suspected of having engaged in sexual harassment (or other illegal or inappropriate behavior) all applicable rights before interviewing. Applicable rights for

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military and civilian personnel are respectively summarized in paragraph 8a and paragraph 8b.

g. Take verbatim notes (as closely as possible). Alternatively, consider tape recording each interview. (Get permission from the interviewee to tape before beginning the interview--**do not tape in secret**. Start the interview by stating on tape the date, time, and location, and have the interviewee acknowledge on tape that he/she understands the interview is being taped. If an interviewee is reluctant to let you tape the interview, suggest that he or she can make his or her own recording if desired. If the interviewee refuses to allow the interview to be taped, then take notes only.)

h. Statements

(1) The IO may assist in helping the interviewee express him/herself accurately and effectively in a written form that is thorough, relevant, orderly, and clear, but the substance of the statement must always be the actual thoughts, knowledge, or beliefs of the interviewee. Translate your notes (or the tape) into a typed statement. DON Voluntary Statement Form (OPNAV 5527/2) may be used if available. Have the interviewee read, make and initial any necessary corrections (pen and ink is preferable), and sign the statement (and initial all pages other than the signature page). The interviewee should sign in the presence of a witness (which can be you); the witness should also sign the statement (also legibly print or type the witness's name). (If the interviewee has additional information to provide, it may be provided in a supplementary statement.)

(2) If an interviewee does not wish to reduce an oral statement to writing, the IO should note this in the report and attach a summary of the interview. Oral statements, even though not reduced to writing, are also evidence. Where the interviewee has made an incomplete written statement, the IO must add a summary of the matters made orally that were omitted from the written statement.

(3) All statements should be sworn. Under JAGMAN, 0902b(2)(d), military personnel detailed to conduct an investigation are authorized to administer oaths in connection therewith. This may be accomplished by asking the interviewee to

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raise his/her right hand and asking, "Do you swear that the information provided in the statement is the truth to the best of your knowledge, so help you God?" (See JAGMAN, 0908d. There is an affirmation for those who do not believe in God.) This should be done both at the end of oral statements (on tape, if applicable) and when executing any subsequent written statements. For written statements, administer the oath verbally, then ensure the statement is completed as follows:

I swear (or affirm) that the information in the statement above (and on the attached pages, each bearing my initials) is the truth to the best of my knowledge.

Interviewee's signature and date

Subscribed and sworn to before me at [location] on [date]

Investigating officer's signature

i. Before closing any interview:

- (1) Summarize key information.
- (2) Solicit any additional information the interviewee wishes to provide.
- (3) Ask the interviewee to identify other witnesses.
- (4) Ask the interviewee to identify and/or provide any pertinent documents or other evidence.
- (5) Schedule a follow-up meeting, if required (e.g., to obtain additional information, signature on written statement).
- (6) Discuss how the interviewee should advise of supplementary information he/she might obtain (or think of) later.
- (7) Discuss the concept of reprisal (improper action against a person for providing information in the investigation) and ensure the interviewee knows how and to whom to report any suspected instances of reprisal.

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(8) Ensure the interviewee has a telephone number to contact you.

(9) Ask the interviewee not to discuss the interview with anyone other than you, and to let you know if anyone tries to discuss the interview with him or her.

8. Rights

a. Military Personnel

(1) When a service member is suspected of having committed discrimination or sexual harassment (or any other offense), he or she may only be questioned after (a) having been properly informed of all applicable rights and, (b) knowingly and intelligently waiving them. (Military suspects must be advised of their rights even if they are not in custody.) The Suspect's Rights and Acknowledgment Statement form (contained in JAGMAN A-1-m), when properly completed, may be used for this purpose. Other than advising the accused of the rights as listed on the form, you should never give any other form of legal advice or promises to the accused.

(2) If the accused desires a lawyer, you should immediately end the interview and consult the judge advocate or other legal counsel advising the command.

(3) After the accused has properly waived all rights, you may begin questioning. Once the accused has made a statement, you may probe with pointed questions and ask the accused about inconsistencies in the story or contradictions with other evidence. You should, with respect to your own conduct, keep in mind that the statement must be voluntary. A confession or admission which was obtained through the use of coercion, unlawful influence, deception, or unlawful inducement is not voluntary. The advantage of having an impartial witness present will have to be balanced case by case against the likelihood that more people might inhibit the interviewee's willingness to be interviewed.

(4) If the accused initially waives all rights, but during the interview indicates a desire to consult with counsel or to stop the interview, scrupulously adhere to such requests

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and end the interview. The interview may not resume unless the accused voluntarily approaches you and indicates a desire to once again waive all rights and submit to questioning. Another Suspect's Rights and Acknowledgement Statement form must be completed prior to reinterview.

b. Civilian Employees

(1) The right to be informed of charges does not apply to an agency's administrative investigation.

(2) The right to Government-provided legal counsel does not apply to an agency's administrative investigation unless the investigation may lead to a criminal prosecution, and then only in the context of a custodial investigation. However, if an employee secures his or her own legal counsel or representative, the employee may consult with that representative during the investigation.

(3) The right to remain silent does not apply to an agency's administrative investigation unless the employee reasonably believes his or her statements may be used in a criminal proceeding. Even then, the employee may not remain silent if the agency first tells him or her that the refusal to answer may result in removal and that any statement the employee makes will not be used against him or her in a criminal proceeding.

(4) An employee who is a member of a bargaining unit in the agency has a right to a union representative during the interview if the employee reasonably believes that the interview may result in disciplinary action against the employee, and the employee requests representation. The agency is not required to advise the employee of this right prior to the interview (unless the applicable collective bargaining agreement provides otherwise). Once the employee requests a representative, the interviewer may either grant the request, discontinue the interview, or offer the employee the choice between continuing the interview unaccompanied by a union representative or having no interview at all.

(5) Prior coordination with the command's legal and/or labor relations advisors is essential.

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9. When gathering the facts as to each allegation, find out:

- a. What exactly happened?
- b. What were the circumstances under which the behavior occurred?
- c. What was the stated intent behind the behavior? Apparent intent? What evidence supports this?
- d. Where did the behavior occur?
- e. Who was involved?
- f. Were there any witnesses?
- g. What was the impact on the recipient? How did the behavior affect the recipient or make the recipient feel?
- h. Did the conflict disrupt the work environment? How? Did it affect the recipient's work performance, or relationship with coworkers?
- i. Did the recipient discuss the situation with anyone at the time?
- j. Has objectionable conduct by the alleged offender (either to this recipient or another) happened before? When? How many times?
- k. Was the offending person told to stop? If so, when? How? What was the reaction? Any witnesses?
- l. Was any of the foregoing documented? How? Is the documentation available? If not, why not? If so, attach documentation (or true copy) to report.
- m. What type of example was set by supervisors?
- n. Were supervisors aware of the offending behavior? Of the conflict? Should they have been? Why? Did they take action to resolve the conflict? What action? Were the persons involved satisfied with any such action? Did the action have any effect?

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What effect? Did the supervisor follow up and provide feedback?

o. Did all persons involved receive accession training in sexual harassment prevention? Yearly training? When? Was training documented? How? (Attach documentation (or true copies thereof) to report.)

p. If reprisal appears to be an issue, are there also legitimate reasons that would justify the treatment of the person(s) who made the report of sexual harassment? What evidence supports these reasons? Were these reasons apparent and/or substantiated prior to the report of sexual harassment? Is there evidence that legitimate reasons were, or were not, the controlling factors for the treatment?

q. Are the persons involved prepared to try to listen, understand, and resolve the conflict? To apologize? To accept an apology?

r. What redress does the recipient desire? Will the recipient be completely satisfied with resolving the matter under the Informal Resolution System (IRS)? Does the recipient desire any further action? What are the recipient's feelings about the loss of confidentiality that may result in the event the command takes disciplinary action against the offender?

10. When reviewing the facts and formulating your opinions, evaluate

a. What exactly happened? It is your role to evaluate agendas and credibility, sort fact from fiction, and draw a clear picture of what happened. (Have you completed all reasonable lines of inquiry, or can you think of others that should also be pursued?)

b. How was the recipient treated, compared with others? If the recipient has been treated differently, why? Does any independent evidence provide a legitimate basis for any different treatment? Even if there is such a basis, does the evidence suggest that the different treatment was in fact improper?

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c. Would the behavior have offended a reasonable person with the victim's perspective? Would a reasonable person perceive the behavior in the same way, given the circumstances?

d. Was the behavior Red, Yellow, or Green Zone? What zone does the behavior fall into when considering whether it is unacceptable or acceptable?

e. What were the responsibilities of the persons involved? Were these responsibilities met? (You may find it helpful to review the Informal Resolution System (IRS) skills booklet.)

f. Even if a supervisor did not condone or ignore the behavior and neither knew nor had reason to know of the specific conduct in question, was the supervisor nonetheless derelict in failing to take reasonable measures to establish and maintain a policy against discrimination and sexual harassment and to adequately educate and train subordinates? (Did all subordinates receive the mandatory accession training? Annual training? If not, was it the supervisor's fault? Why or why not?)

g. If the behavior does not constitute discrimination or sexual harassment as defined in this manual, is it nonetheless inappropriate for some other reason? For example:

(1) If the conduct was sexual in nature and was not sexual harassment because the recipient welcomed it, was it an ethics violation or use of public office for private gain, or making unauthorized gifts to superiors, bribery, graft, fraternization, adultery, or sexual harassment of non-participating subordinates?

(2) Even if the conduct was not sexual harassment because it was not sexual in nature, was it: maltreatment of a subordinate; an ethics violation for use of public office for private gain; or making unauthorized gifts to superiors; fraternization; or disrespect?

h. If it appears that the allegation of discrimination or sexual harassment was false, was it made honestly and in good faith, or did the person who made it know it was false when made? What's the evidence on this issue?

i. What are the possible resolution options? Are there any

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that would be acceptable to all? What option(s) do you recommend? Why? How would the recommended option(s) resolve the conflict?

11. Complete your report

- a. Comply with any specific requirements of your command.
- b. In general, your report should usually contain the following:
 - (1) List of persons interviewed (if all desired interviews were not completed indicate who and why).
 - (2) Signed written statements of persons interviewed (preferably sworn) should be attached as enclosures. Also include your written summaries of any oral statements (see par. 7i). Unless otherwise directed by your command, do not include your notes or tapes, but do retain them until the matter is resolved and your command advises you that retention is no longer necessary.
 - (3) Completed suspect's rights acknowledgment forms (if applicable).
 - (4) Any other evidence should be attached as enclosures. If not practicable to do so, provide an enclosure that describes the evidence and states its location.
 - (5) Your discussion, including background, identification of all allegations, findings, opinions, recommendations, signature, and date. (Clearly address all allegations; identify opinions and recommendations as such.) (Where the offending person is a service member, a properly completed NAVPERS 1626/7, Report and Disposition of Offense(s), will usually be acceptable for this purpose.)
 - (6) Identify any related policies, practices, deficiencies, or other issues that may constitute or foster the inappropriate behavior (or appear to) noted in the course of the investigation, even though not specifically raised by the complaint.

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